

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

UNITED STATES OF AMERICA .
Docket No. 4:14-MJ-02004-JJV
PLAINTIFF, .
Little Rock, Arkansas
VS. .
May 22, 2014
2:52 P.M.
NATHANIEL SMITH, .
DEFENDANT. .
.

TRANSCRIPT OF
DETENTION HEARING
BEFORE THE HONORABLE JOE J. VOLPE
UNITED STATES MAGISTRATE JUDGE

ELECTRONIC COURT RECORDER-OPERATOR: Ms. Stacy Williams

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I N D E XDIRECT CROSS REDIRECT RECROSSWITNESSES FOR GOVERNMENT:

Jennifer Hurd	5	29	50, 59, 60	53
David Bratton	61	64		
Todd Hurd	72	81		

EXHIBITS:IDENTIFIEDRECEIVED

Government's Exhibit No. 5	19	19
Government's Exhibit No. 4	22	22
Government's Exhibit No. 1	89	89
Government's Exhibit No. 2	89	89
Government's Exhibit No. 3	89	89

P R O C E E D I N G S

(Call to order of the Court.)

THE COURT: Good afternoon.

MS. BRYANT: Good afternoon, Your Honor.

MS. DRIGGERS: Good afternoon.

THE COURT: We're here on the record in the matter of the *United States of America v. Nathaniel Smith, IV*. It's case 4:14 -- that is not the right case number -- is that an MJ case?

THE CLERK: Yes.

THE COURT: Okay. I'm sorry. This is still on the complaint. That's right. 4:14-2004. And he is defendant number 1.

For the prosecution, you may proceed.

MS. BRYANT: Your Honor, I call Detective Jennifer Hurd.

And, Your Honor, for the record, the criminal history reflected in the Pretrial Services Report, can that be the -- what -- the document we rely on for his criminal history?

THE COURT: Let me ask the defense, do you know --

MS. DRIGGERS: I don't have any objection to that, Your Honor. I believe that there were some changes that were made, but we don't -- we don't have any problem.

THE COURT: All right. Now, and let me just make sure that -- we'll make the whole report -- you just mentioned

Hurd - Direct

5

1 the criminal history, but there's other information about him,
2 as far as mental health history and stuff like that, make the
3 whole report a part of the record?

4 MS. BRYANT: Yes, Your Honor.

5 THE COURT: All right. Very good. It will be
6 received.

7 MS. DRIGGERS: Thank you, Your Honor.

8 MS. BRYANT: Detective Hurd.

9 JENNIFER HURD, GOVERNMENT'S WITNESS, SWORN.

10 DIRECT EXAMINATION

11 BY MS. BRYANT:

12 Q Good afternoon. Can you please introduce yourself to the
13 Court?

14 A Jennifer Hurd.

15 Q And how are you employed?

16 A I'm a detective with the Little Rock Police Department.

17 Q And how long have you been a detective?

18 A For 17 years.

19 Q Okay. What did you do before that?

20 A I was a patrol officer.

21 Q Okay. For how long?

22 A Two years.

23 Q Okay. Are you assigned to a certain squad with the Little
24 Rock Police Department?

25 A Yes, I work with the vice detail, who is also part of the

Hurd - Direct

6

1 Denied Innocence Human Trafficking Task Force.

2 Q Okay. And can you briefly describe to the Court the
3 Denied Innocence Task Force?

4 A Yes. This is a task force that was established to address
5 trafficking of minors and adults for sexual exploitation
6 through the FBI.

7 Q Okay. What are some agencies that are involved in the
8 task force?

9 A Little Rock, North Little Rock, Conway, the FBI, Hot
10 Springs. There's quite a few.

11 Q Okay. And were you involved in the investigation of the
12 -- of Mr. Smith?

13 A Yes.

14 Q Okay. Can you explain to the Court how that investigation
15 began?

16 A Yes. On April 10th, 2014, the vice detail received a
17 CyberTip complaint from the National Center for Missing and
18 Exploited Children in reference to a black female who had been
19 advertised on Backpage.com, who appeared to be underage. At
20 that time, we looked at Backpage and was unable to locate any
21 current ads involving this girl.

22 On April 24th, 2014, Officer Rick Harmon responded to a
23 disturbance at the La Quinta Inn located at 200 South
24 Shackleford in Little Rock. He made contact with the manager
25 who advised that she had been threatened by Nathaniel Smith,

Hurd - Direct

7

1 who was staying at the hotel. The manager advised that Mr.
2 Smith had rented five rooms and had several girls staying in
3 those rooms.

4 MS. DRIGGERS: Your Honor, if I could, if we could
5 have the witness testify from her memory, and if she's reading
6 something, we would just ask to see what she's reading.

7 THE COURT: All right.

8 MS. BRYANT: That's -- it's a copy of her report.
9 They're welcome to look at it.

10 THE COURT: All right.

11 BY MS. BRYANT:

12 Q Okay.

13 A The manager -- the manager advised that they had been a
14 disturbance and there was a strong odor of marijuana coming
15 from the rooms and that they had asked them to leave. She
16 told them that she would refund the money. And the manager
17 stated that Mr. Smith told her that he was going to have
18 someone come to the hotel and hurt her.

19 Officers went to Mr. Smith's room, 206, and could smell a
20 strong odor of marijuana coming from the room. They conducted
21 a warrant check on Mr. Smith and he was found to have a
22 failure to appear warrant. He was arrested and transported to
23 the Pulaski County jail.

24 Q Okay. Did the officer make contact with any -- any
25 females staying in those rooms rented?

Hurd - Direct

8

1 A Yes, they did.

2 Q Okay. How many females?

3 A There were five.

4 Q Okay. Did they make any statements?

5 A Yes, they denied knowing Mr. Smith prior to this date and
6 stated that he had just rented the rooms under his name for
7 the rewards points.

8 Q Okay. And were two of these girls Jane Doe and Jane Doe 2
9 that were -- Jane Doe 1 and Jane Doe 2 that were listed in the
10 criminal complaint affidavit?

11 A Yes.

12 Q Okay. What happened next in the investigation?

13 A On the 27th of April, 2014, I received information from a
14 reliable confidential informant, who advised that Nathaniel
15 Smith was trafficking several girls out of the Atria Inn
16 located on University. The informant advised that Mr. Smith
17 had one white female and three black females in rooms 205,
18 206, 209, and 212. The informant stated that there was a
19 mixed Puerto Rican female who had a baby, who wanted help
20 getting away from Mr. Smith. The informant stated that she
21 was afraid of him, that he had taken all of her money, and
22 taken her car keys, and threatened to have other girls beat
23 her up if she didn't comply with his demands.

24 Q Okay. Did the confidential source tell you anything about
25 these girls being advertised?

Hurd - Direct

9

1 A Yes, she stated that they had been advertised on
2 Backpage.com.

3 Q Okay. And did they give you a name of one of the girls in
4 the ads?

5 A Yes. Patrece.

6 Q And were you able to locate that ad?

7 A Yes, we were.

8 Q And did the ad corroborate the information given to you by
9 the confidential source?

10 A Yes.

11 Q Okay. What did you do next?

12 A We found this ad. Detective Bratton was working in an
13 undercover capacity and he arranged a date with this
14 individual. And prior to that, he went to the Atria Inn and
15 got a room roster list. And rooms 205 and 206 were rented in
16 a female's name involved in the investigation. Rooms 209 and
17 213 were rented in Nathaniel Smith's name.

18 Q Okay. And so, I know you talked about Detective Bratton
19 answering an ad. Did he answer an ad for Patrece or for a
20 different girl?

21 A He answered the ad for Jane Doe 1.

22 Q Okay. And so, he arranged a date with Jane Doe 1?

23 A Yes.

24 Q Okay. And what happened?

25 A He responded to the Atria Inn. She directed him to room

Hurd - Direct

10

1 206. He entered the room. Jane Doe 1 agreed to engage in
2 oral sex for 60 dollars. Vice detectives were monitoring the
3 operation via a recording device and he gave the signal for
4 officers to come in and make the arrest. We went in and made
5 contact. I made contact with Jane Doe 1, who was crying and
6 shaking. She initially didn't want to talk to us. She stated
7 that she was afraid. When I asked her if she was afraid of
8 someone, she stated "beyond afraid."

9 Q Okay.

10 A She stated that she was afraid to talk to us because she
11 -- everyone would know that she was a snitch.

12 Q Okay. Did you eventually take Jane Doe 1 to the detective
13 division for questioning?

14 A Yes, I did.

15 Q Now, while this was going on, were other officers there?

16 A Yes.

17 Q And did they observe Mr. Smith?

18 A Yes, they did.

19 Q Okay. Can you explain to the Court what they observed?

20 A Yes. Detective Johnson observed Mr. Smith on the second
21 floor of the hotel. As he approached Mr. Smith, he identified
22 himself as a police officer. Mr. Smith ran from Detective
23 Johnson into room 209 and slammed the door. Detective Johnson
24 watched the door until additional officers could arrive, which
25 was approximately ten to 15 minutes. Detective Johnson then

Hurd - Direct

11

1 knocked on the door, called out for Mr. Smith. Mr. Smith then
2 answered the door and Detective Johnson took him into custody.

3 Q Okay. I know we've talked about several rooms that had
4 been rented. Was contact made with anyone else from the
5 rooms?

6 A Yes. A white female, who is Jane Doe 2, came out of room
7 205, who was identified -- later identified. At that time, I
8 had contact with the confidential informant and she advised
9 that Jane Doe 1 and Jane Doe 2 were involved in Mr. Smith's
10 operation.

11 Q Okay. And was Jane Doe 2 eventually taken to the
12 detective division for questioning?

13 A Yes, she was.

14 Q Okay. While there, did anyone else come to the scene?

15 A Yes. Nathaniel Smith's sister, Natalie Smith, came to the
16 scene, as well as Marjorie Lee.

17 Q Okay. And were you advised of who Marjorie Lee was?

18 A Yes. Again, the informant advised me that that was
19 Nathaniel Smith's bottom girl or main girl that works for him.

20 Q Okay. So she was also prostituting for him?

21 A Yes.

22 Q And does she go by a nickname?

23 A Yes. MarMar.

24 Q Okay. When you came into contact with Ms. Lee, did you
25 notice anything on her face?

Hurd - Direct

12

1 A Yes, she had a laceration on the right side of her face,
2 just under her eye.

3 Q Okay. Did she tell you how she obtained that laceration?

4 A She stated that she had gotten in a fight at her job at
5 the Paper Moon strip club.

6 Q Okay. The other individuals you talked to, did they tell
7 you a different story?

8 A Yes. They told me that Nathaniel Smith had beat her up
9 and caused the laceration.

10 Q Okay. Now when Mr. Smith's sister was there -- what was
11 her name?

12 A Natalie Smith.

13 Q Okay. Did she go to Mr. Smith's room to retrieve his
14 belongings?

15 A Yes.

16 Q Okay. And who else was there with Mr. Smith's sister and
17 Ms. Lee?

18 A Ms. Lee's mother and Natalie Smith's mother, Nathaniel
19 Smith's mother.

20 Q Okay. Now let's talk about the interviews that you
21 conducted. You conducted an interview with Jane Doe 1?

22 A Correct.

23 Q Okay. And can you inform the Court about what that
24 interview entailed?

25 A Yes. She stated that she met Nathaniel Smith in a hotel

Hurd - Direct

13

1 room in Orlando, Florida. She advised that --

2 Q Is this Jane Doe 1 or Jane Doe 2 that you're talking
3 about?

4 A Jane -- Jane Doe 1, I believe.

5 Q Okay. I think Jane Doe -- Jane Doe 1 was the girl who
6 initially -- that Detective Bratton made contact with when he
7 answered the ad.

8 A Okay. I'm sorry. I was mistaken then.

9 Q Okay.

10 A So this is -- this is Jane Doe 2.

11 Q Okay. Go ahead about what Jane Doe 2 told you.

12 A Okay. She said that she had met him in a hotel room in
13 Orlando, Florida, that she knew him by the name of Traffic.
14 She said he initially seemed like a nice guy. He recruited
15 her to work for him as a prostitute. And then they came back
16 to Little Rock where she prostituted for him, as well.

17 Q Okay. Did she say when they came from Florida to Little
18 Rock?

19 A She said it was January or early February 2014.

20 Q And did say the purpose of that trip was for her to come
21 here and prostitute?

22 A Yes.

23 Q Okay. What did -- what are some things that Jane Doe 2
24 told you about quotas that she had to make for Mr. Smith?

25 A She stated that they had a quota of 500 dollars a day that

Hurd - Direct

14

1 they had to make.

2 Q And what happened if they didn't make that quota?

3 A She stated that he would yell at them, telling them to get
4 their numbers up, stop blowing off dates, and call them out of
5 pocket hoes and tell them that needed to get in pocket.

6 Q Okay. What did she state about -- did she talk to you
7 about forms of punishment that Mr. Smith placed on them if
8 they, I guess, some terms, misbehaved?

9 A Yes.

10 Q Okay. Can you explain to the Court what some of those
11 terms were?

12 A Yes. They were only allowed to have one meal a day, and
13 that was when he chose to have -- have something to eat. They
14 weren't allowed to sleep for regular periods. They -- it was
15 all about making the money, so they weren't allowed to sleep.
16 He continually posted them time and time again. And if -- if
17 there was a punishment involved, they explained of having very
18 painful sex, where he would hold them down with their knees up
19 around their heads and have sex with them until they cried,
20 until they begged for him to stop, and wouldn't stop when they
21 -- they begged him to.

22 Q Okay. What about did he ever threaten them?

23 A Yes.

24 Q Okay. When you talked to Jane Doe 1 and Jane Doe 2, did
25 they both use a similar phrase that Mr. Smith would tell them?

Hurd - Direct

15

1 A Yes. They stated that he would use the phrase "I will
2 take everything that makes you human from you" and then he
3 would say "your life."

4 Q Okay. In your opinion and based on the things that Jane
5 Doe 2 told you, was she scared of Mr. Smith?

6 A Yes.

7 Q Did Mr. Smith take Jane Doe 2 anywhere else, other than
8 from Florida to Little Rock?

9 A Yes. They went to California.

10 Q Okay. Was that for the purpose of prostituting?

11 A Yes.

12 Q What did Jane Doe 2 tell you about if Mr. Smith provided
13 her with narcotics?

14 A Yes. She said that he provided her with crack cocaine on
15 a regular basis, as much as she wanted, as long as she was
16 working. She said he -- he would provide her throughout the
17 day.

18 Q Okay. Did Jane Doe 2 tell you if she ever saw Mr. Smith
19 with guns?

20 A Yes, she did.

21 Q What did she say about it?

22 A She said that he always had a gun with him and would
23 either hide it in his waistband or he would cut a slit in the
24 mattress of the room that he was staying in and hide it in the
25 mattress.

Hurd - Direct

16

1 Q Okay. What about would Mr. Smith drive her around
2 anywhere in Little Rock and point out things?

3 A Yes. She stated that he drove her through his
4 neighborhood where he grew up, showed her -- pointed out
5 houses that had bullet holes in them, and explained that this
6 is how he grew up, and that that's what made him who he was,
7 and that sort of thing.

8 Q And what did Ms. Smith [sic] tell you was the reason she
9 believed he did that?

10 A To intimidate her, to make her scared.

11 Q Let's talk about your interview with Jane Doe 1. What did
12 she tell you?

13 A She stated that she also knew Nathaniel Smith as Traffic
14 and that they met through Marjorie Lee. She stated that she
15 was having a hard time financially when she ran into Marjorie
16 Lee and she recruited her to work for Mr. Smith through
17 prostitution.

18 Q Okay. Did she know him by any nickname?

19 A As Traffic.

20 Q Okay. So she was prostituting for Mr. Smith, as well?

21 A Yes.

22 Q How would they advertise her?

23 A On Backpage.com.

24 Q Okay. And who would post her Backpage ads, would she or
25 would other -- would Mr. Smith?

Hurd - Direct

17

1 A Mr. Smith would.

2 Q Okay. Did Jane Doe 1 say any time that Mr. Smith had been
3 physical with her?

4 A Yes. She described a time when she was coming back to a
5 hotel room from a date and she went into the room and the
6 lights were off and Mr. Smith had been hiding in the closet
7 and jumped out at her and scared her or startled her. And she
8 stated that she called him a bitch. And she stated that he
9 immediately backhanded her and told her that she needed to
10 learn what she could and couldn't say to him.

11 Q Okay. What did she do after this?

12 A She said that she waited until she felt safe, when he was
13 -- he was gone, so she could leave.

14 Q Okay.

15 A She called her grandparents to leave.

16 Q And what happened after she left?

17 A She said that she received numerous phone calls and texts
18 from Mr. Smith and Marjorie Lee asking her to come back, that
19 he didn't mean to do what he did, and that -- that -- promised
20 it would never happen again.

21 Q Okay. Did he say who he was sending to pick her up?

22 A Yes. He said that he would -- he would send Marjorie Lee
23 to come pick her up and if she didn't come back with -- with
24 her, that he would come get her.

25 Q Okay. And did Jane Doe 1 corroborate what -- essentially

Hurd - Direct

18

1 what Jane Doe 2 had told you about the forms of punishment?

2 A Yes.

3 Q And about the quota that had to be met?

4 A Yes.

5 Q And have you talked to other individuals who worked for

6 Mr. Smith that have said the same information about the

7 quotas?

8 A Yes.

9 Q Which was what?

10 A 500 dollars.

11 Q And did Jane Doe 2 say if Mr. Smith provided her with any

12 narcotics?

13 A Yes.

14 Q What did he provide her with?

15 A Marijuana.

16 Q Okay. And did you also take Mr. Smith back to the

17 detective division?

18 A Yes, we did.

19 Q And can you explain to the Court his demeanor during your

20 time, I guess, when you were interviewing other individuals in

21 the case?

22 A Yes. He was very loud and belligerent, yelling, yelling

23 out to the girls, telling them that this was just misdemeanor

24 charges, and that if they kept their mouths shut, nothing

25 would happen.

Hurd - Direct

19

1 Q Okay. And did there come a time where you started
2 recording how Mr. Smith was acting?

3 A Yes.

4 Q Why did you do that?

5 A To document his -- the way he was acting.

6 Q Okay. And did you provide that audio recording to me?

7 A I did.

8 MS. BRYANT: And, Your Honor, at this time, I'd like
9 to play the audio recording.

10 THE COURT: Have you heard it?

11 MS. BRYANT: And I've provided a copy to defense --
12 or they listened to it.

13 MS. DRIGGERS: No objection. We've listened to it.

14 THE COURT: You have no objection. Okay.

15 MS. BRYANT: And this will be Government's Exhibit
16 No. 5.

17 THE COURT: All right.

18 (Government's Exhibit No. 5 identified and received.)

19 (Begin audio playback, Government's Exhibit No. 5.)

20 BY MS. BRYANT:

21 Q Is that Mr. Smith we can hear?

22 A Yes, it is.

23 (Continue audio playback, Government's Exhibit No. 5.)

24 BY MS. BRYANT:

25 Q Who is he talking to?

Hurd - Direct

20

1 A To me.

2 (Continue audio playback, Government's Exhibit No. 5.)

3 BY MS. BRYANT:

4 Q Who is MarMar?

5 A Marjorie Lee.

6 (Continue audio playback, Government's Exhibit No. 5.)

7 BY MS. BRYANT:

8 Q And your recorder is outside of the room, correct?

9 A Yes, it is.

10 (Continue audio playback, Government's Exhibit No. 5.)

11 BY MS. BRYANT:

12 Q How did you perceive that statement?

13 A As a threat.

14 (Continue audio playback, Government's Exhibit No. 5.)

15 BY MS. BRYANT:

16 Q I think that -- I don't know if it came through, did one
17 of the detectives with you ask you if that was a threat?

18 A Yes.

19 (Continue audio playback, Government's Exhibit No. 5.)

20 THE COURT: Ms. Bryant, may I ask, does it go on much
21 longer?

22 MS. BRYANT: There is about five more minutes.

23 THE COURT: All right.

24 MS. BRYANT: The main part, and I can fast forward to
25 the end, is about the statements he makes when they're

Hurd - Direct

21

1 arresting him.

2 THE COURT: Why don't you do that? We're kind of in
3 the cumulative phase here, I think.

4 MS. BRYANT: Yes, sir.

5 (Audio playback, fast forwarded, continue audio playback,
6 Government's Exhibit No. 5.)

7 (End audio playback, Government's Exhibit No. 5.)

8 BY MS. BRYANT:

9 Q What was Mr. Smith eventually charged with that night?

10 A Two counts of trafficking of persons and one count of
11 fleeing.

12 Q And was that on April 29th, 2014?

13 A Yes.

14 Q Okay. Did Mr. Smith eventually bond out on those charges?

15 A Yes, he did.

16 Q And did you get the paperwork documenting the bond?

17 A Yes.

18 MS. BRYANT: May I approach, Your Honor?

19 THE COURT: You may.

20 BY MS. BRYANT:

21 Q I have Exhibit No. -- Government's Exhibit No. 4. Do you
22 recognize that?

23 A Yes.

24 Q And what is it?

25 A This is the bail bond's paperwork that I got from the

Hurd - Direct

22

1 jail.

2 MS. BRYANT: Your Honor, we'd move to introduce
3 Government's Exhibit No. 4.

4 THE COURT: Response?

5 MS. DRIGGERS: I don't know how it's relevant, Your
6 Honor. I would --

7 THE COURT: Well, I imagine Ms. Bryant is going to
8 make it relevant, but --

9 MS. BRYANT: Yes, Your Honor.

10 THE COURT: All right. I'll let her make it
11 relevant, and if not, we can take it up at a later time.

12 MS. DRIGGERS: Okay.

13 (Government's Exhibit No. 4 identified and received.)

14 BY MS. BRYANT:

15 Q Does it indicate the date that Mr. Smith was bonded out?

16 A Yes. It was May 1st.

17 Q And what was the bond amount?

18 A 100,000 dollars.

19 Q Okay. After this arrest, did you subsequently get a
20 criminal complaint and arrest warrant from Judge Volpe?

21 A Yes, I did.

22 Q Okay. And what did you do with this -- with this
23 complaint to try to locate Mr. Smith?

24 A We conducted an undercover prostitution operation on the
25 ad that -- that we initially were told about, that included

Hurd - Direct

23

1 the name Patrece.

2 Q Okay.

3 A And we performed an operation with that.

4 Q Okay.

5 A That ad.

6 Q So you set up a date with Patrece?

7 A Yes.

8 Q And was a date -- did a date go through in the fact that
9 you guys made an arrest?

10 A Yes.

11 Q Okay. And what information did Patrece provide?

12 A She told us that Nathaniel Smith was staying at Motel 6 on
13 Markham Street.

14 Q Okay. Did she state any indication if Mr. Smith had
15 contacted her since he had bonded out?

16 A Yes.

17 Q And what did he say to her?

18 A He told her that he needed her to work for him again, that
19 he was glad that he had run into her, that he needed money,
20 and needed money to get Marjorie Lee out of jail.

21 Q Okay. And did she say anything if he had anybody else
22 working for him?

23 A She did. She told us about another female that was
24 working for him.

25 Q Okay. What did you do with that information?

Hurd - Direct

24

1 A We conducted another operation where Detective Bratton
2 posed as an undercover, and made an arrest there, as well.

3 Q Okay. And did that individual provide the location of Mr.
4 Smith?

5 A Yes, she did.

6 Q Okay. And was that location the same as where Patrece had
7 said that Mr. Smith would be?

8 A Yes, it was.

9 Q Okay. Was Mr. Smith eventually arrested?

10 A Yes, he was.

11 Q Now, had Mr. Smith rented any rooms -- which hotel was
12 this?

13 A The Motel 6 on Markham.

14 Q And had he -- had he rented any rooms?

15 A Yes, he had.

16 Q Okay. And where was the girl that was going to conduct
17 the date, what room was she in?

18 A She was in the room that Nathaniel Smith had rented.

19 Q Okay. Now, was Mr. Smith in that room or a different
20 room?

21 A He was in the room -- a room next door.

22 Q Okay. Can you explain how detectives came into contact
23 with Mr. Smith?

24 A Yes. Sergeant Hamby was standing outside of the room
25 where the -- the arrest of the female had occurred. He saw

Hurd - Direct

25

1 Nathaniel Smith poke his head outside the door, and then shut
2 the door. Sergeant Hamby and some other detectives went over
3 to the door, knocked on the door, and announced who they were.
4 And then a Hispanic male opened the door and they ultimately
5 took Mr. Smith into custody.

6 Q Okay. And was that room searched that day?

7 A It was.

8 Q Was anything found?

9 A Yes. There were some items found, debit cards, that sort
10 of thing.

11 Q Okay. Was there something that was missed that day?

12 A Yes, there was.

13 Q Okay. Can you explain to the Court what that was?

14 A It was a handgun.

15 Q Okay. Can you explain how law enforcement learned that
16 they had missed the gun?

17 A The next morning we were notified by the management of the
18 hotel, who said that they were cleaning the room and found the
19 gun that had been stuffed up underneath the night stand, and
20 the only way they had found it was because they had moved the
21 night stand out.

22 Q Okay. And did they -- did law enforcement eventually go
23 retrieve that gun?

24 A Yes, we did.

25 Q When they made contact with the girl that day, that was

Hurd - Direct

26

1 arrested in the room by Mr. Smith, did she describe a gun that
2 Mr. Smith would have on him?

3 A Yes, she did.

4 Q Okay. And what was the description of that gun?

5 A She said it was a black -- the name of the gun is --

6 Q Is it a Springfield?

7 A Springfield, yes, Springfield Arms .45.

8 Q Okay. And what was the gun that was found in that hotel
9 room; what kind of gun was that?

10 A It was a Springfield Arms .45, black.

11 Q Did it match the exact description?

12 A Yes, it did.

13 Q Okay. What about in the room that the girl was in, that
14 she was going to conduct the date, what did you guys find in
15 there?

16 A There were numerous items found. Among those were .38
17 rounds.

18 Q Okay. And what about -- you had said that you had been
19 given previous information that Mr. Smith would slit a hole in
20 the bed to hide his gun, did you find anything that
21 corroborated that?

22 A Yes. Detectives observed a slit in the bed, just as these
23 girls had described.

24 Q Okay. Was the firearm found in the room, was it loaded?

25 A Yes, it was.

Hurd - Direct

27

1 Q And did the girl say that she had seen Mr. Smith with the
2 gun that day?

3 A Yes. She said she'd seen him at least three times with
4 the gun that day.

5 Q And the other girls that you talked to, did they all make
6 any statements about if Mr. Smith carried a firearm?

7 A Yes. They all stated that they knew he carried one.

8 Q And where would they say he'd normally keep it on his
9 person?

10 A In his waistband.

11 Q I want to talk about -- so Mr. Smith was placed under
12 arrest, where did you transport him then?

13 A We went to the Northwest substation again.

14 Q Okay. Where did you transport him the next morning?

15 A To federal court.

16 Q Okay. How was he acting during his transport to federal
17 court?

18 A He was complaining again and screaming, complaining about
19 his arm, and he stated that he had been thrown in the shower
20 the night before and fallen and injured his leg and that the
21 jail had not given him any kind of medical care, and that we
22 were denying him medical care, that sort of thing.

23 Q Okay. Okay. Then did you eventually drop him off in
24 Marshals custody?

25 A Yes, I did.

Hurd - Direct

28

1 Q Did you receive a call back saying you needed to come
2 back?

3 A Yes.

4 Q Why?

5 A I was told that he was complaining of chest pains to his
6 attorney.

7 Q Okay. So what happened?

8 A An ambulance was called and I rode with them, the
9 ambulance, to the med center.

10 Q Okay. Did Mr. Smith tell the ambulance that he was having
11 chest pains?

12 A No.

13 Q Did the doctors eventually diagnose Mr. Smith with
14 anything?

15 A Yes.

16 Q What was it?

17 A Joint pain.

18 Q And I think I forgot to ask you earlier, the girls that
19 worked for Mr. Smith, did they have to give him all their
20 money?

21 A Yes, they did.

22 Q Okay. Did they get to keep any of it?

23 A No.

24 MS. BRYANT: I think that's all I have right now,
25 Your Honor.

Hurd - Cross

29

1 THE COURT: Cross?

2 MS. DRIGGERS: Can I just have five minutes to look
3 at her report?

4 THE COURT: You may. Do you want me to take a
5 recess?

6 MS. DRIGGERS: That would be great.

7 THE COURT: All right. We'll be in recess.

8 (Recess.)

9 AFTER RECESS

10 THE COURT: Ms. Driggers, have you had enough time?

11 MS. DRIGGERS: Yes, Your Honor.

12 THE COURT: You may proceed.

13 CROSS EXAMINATION

14 BY MS. DRIGGERS:

15 Q Hi, Detective Hurd.

16 A Hi.

17 Q I guess we'll just go in the course of events like Ms.
18 Bryant did.

19 A Okay.

20 Q Let's talk first about, I guess, the reason we're here,
21 and that's because it's your position that these girls are
22 afraid of Mr. Smith, right?

23 A Yes.

24 Q And that your position is he's a danger to the community
25 if he's released, right?

Hurd - Cross

30

1 A Yes.

2 Q And you -- you never personally observed him trafficking
3 these girls, right?

4 A No.

5 Q Your information that you put in the complaint is based on
6 what these girls have told you?

7 A Yes, and through our investigation. Yes.

8 Q Okay. So, you would agree with me then that the
9 credibility of these girls is really important to the case?

10 A Sure.

11 Q Okay. So let's talk a little bit about the girls that
12 were at the La Quinta on the 24th of April. I'm seeing in
13 your complaint that there was a reference to four girls, but
14 did I hear you say there was five girls?

15 A I may have been mistaken.

16 Q Okay.

17 A In my report, I've listed four.

18 Q And at least two of those girls were then later found at
19 the Atria; am I right about that?

20 A Yes.

21 Q Okay. And when -- when the detectives showed up at the
22 scene at the La Quinta, they were there because the clerk had
23 claimed that Mr. Smith made some threats, right?

24 A Yes.

25 Q Was there a police report ever written on a terroristic

Hurd - Cross

31

1 threatening charge, or assault, anything like that?

2 A Yes.

3 Q And what -- who wrote the report?

4 A I believe that's Officer Harmon.

5 Q But when Mr. Smith was taken into custody, was he arrested
6 for terroristic threatening?

7 A No, he was arrested on a warrant for fail to appear.

8 Q Okay. So, he was never actually charged with anything for
9 the alleged threats that he made?

10 A No.

11 Q Okay. And so he's in custody. At what time of night was
12 this at the La Quinta?

13 A I don't have that report in front of me, so I don't have
14 the time.

15 Q Well, is it fair to say it was in the evening?

16 A I honestly don't recall.

17 Q Okay. Well, at some point, Mr. Smith is taken down to the
18 jail, booked in on this warrant, right?

19 A Correct.

20 Q So, what -- what's going on with the girls at the time
21 that he's in jail?

22 A It's my understanding that they were made to leave the
23 hotel.

24 Q Okay. Did the police follow them or help them get to a
25 place to stay?

Hurd - Cross

32

1 A Not that I know of.

2 Q Would it be fair to say that the police didn't assist them
3 because they didn't see any signs of distress?

4 A At that time, I don't think it was brought to law
5 enforcement's knowledge that they were working for him.

6 Q Well, if -- if the girls had appeared in distress, whether
7 it be bruised, beaten, scared, the police would have picked up
8 on that, right?

9 A I'm -- I would think so, but I wasn't there, so I'm not
10 sure how the circumstances presented themselves at that time.

11 Q Well, you picked up on it, right?

12 A Right. Because I had a complaint.

13 Q Okay. But you first, off the bat, when you saw these
14 girls, you suspected that they might have been holding back
15 information, right?

16 A Correct.

17 Q So you were able to build rapport and talk to them?

18 A Yes.

19 Q So, what I'm saying is, when these officers saw these
20 girls in these hotel rooms at the La Quinta, they didn't see
21 any signs that the girls were in need of help?

22 A Again, I don't know what they saw. I do know that that
23 report was forwarded to the vice unit, so I'm assuming,
24 because it was forwarded to us, that they thought that we
25 needed to look into it.

Hurd - Cross

33

1 Q Okay. And is it true that one of the girls there had a
2 baby with her?

3 A I don't know that.

4 Q Okay. I -- there was some reference in the complaint to
5 one of the girls had a baby.

6 A Yes. That was at one of the later deals.

7 Q Is it not true though, that that same girl was at the La
8 Quinta with her baby?

9 A I don't know if she was -- I know she was there, but I
10 don't know if she had her baby at that time.

11 Q Okay. And none of those girls were charged with
12 prostitution at that time, on the 24th?

13 A No.

14 Q Okay. So then, on the 27th, you get a tip from an
15 informant, right?

16 A Correct.

17 Q And if I'm understanding you correctly, the informant is
18 telling you something that another girl has told her --

19 A Correct.

20 Q -- is that right? So, let's talk a little bit about the
21 informant's credibility. What do you know about your
22 informant's credibility?

23 A I know that she works for other detectives --

24 Q Does she have --

25 A -- and that's -- that's how the information came to me.

Hurd - Cross

34

1 Q Does she have a history of prostitution?

2 A I don't know.

3 Q Does she have a criminal history at all?

4 A Probably, most informants do.

5 Q Okay. And does she have a history of drug use?

6 A I don't know.

7 Q So when you say she's a reliable informant then, what are
8 you basing that on?

9 A Basing that on other detectives who have worked with her
10 in the past.

11 Q Okay. Do you know if that informant was on probation or
12 parole?

13 A I don't know.

14 Q And the informant never told you that Mr. Smith assaulted
15 her, right?

16 A No.

17 Q It's the informant telling you that somebody else told
18 her; am I hearing you right there?

19 A I don't believe that she told me that the girl had been
20 assaulted, no.

21 Q Okay. So then, what was the reason for these girls being
22 fearful of being hurt?

23 A The information that I received was that this girl was
24 trying to leave him, and that he had taken her money, taken
25 her keys, had threatened her with violence through other

Hurd - Cross

35

1 girls.

2 Q And what kind of car was it that she was driving?

3 A I don't know.

4 Q Okay. Did you talk to her about any prior attempts she
5 had made to leave -- well, no, you didn't talk to her at all,
6 right, you're just relying on this informant --

7 A Correct.

8 Q -- who is telling you what this other girl said?

9 A Correct.

10 Q And you don't know whether the other girl was on drugs or
11 had a criminal record?

12 A I don't know.

13 Q Okay. So then, at some point, the investigation escalates
14 and you all start looking on Backpage for some ads; is that
15 right?

16 A Correct.

17 Q And I noted that you weren't able to get the actual ad; is
18 that correct?

19 A I observed the ad, but due to the time that it was -- that
20 I looked at it, it was late at night, I was not able to
21 capture it or make a copy of it at that time. The next
22 morning when I went to look at it, to retrieve it, it was no
23 longer there.

24 Q And so, is that going to be some information that you're
25 able to get later on, or is just gone forever?

Hurd - Cross

36

1 A I don't know. We may be able to get it through Backpage.

2 Q Okay. So then, on the 28th, you go on Backpage again and
3 the picture is back up, or, no, is that a different girl?

4 A No, that's that same ad that I'm talking about.

5 Q The same ad just popped up again?

6 A No, that's the date when I was trying to look for it and
7 it was no longer there.

8 Q Okay. And the phone number that was associated with that
9 ad, is that the (501) 902 number?

10 A Correct.

11 Q And do you know who that phone is subscribed to?

12 A I do not.

13 Q So when you -- did you call the number?

14 A No.

15 Q Which detective actually called the number?

16 A Detective Bratton.

17 Q Okay.

18 MS. DRIGGERS: So he's going to testify in a minute,
19 right? Okay. So I'll ask him those questions.

20 THE WITNESS: Okay.

21 BY MS. DRIGGERS:

22 Q So then, on the 29th, you're part of that investigation,
23 right?

24 A Correct.

25 Q When you see the girls there in the hotel, is that when

Hurd - Cross

37

1 they tell you that they're afraid?

2 A Once we're able to talk with them, yes.

3 Q But initially, they don't, right?

4 A Correct.

5 Q And they don't have bruises on them or they don't appear
6 to be in any kind of pain?

7 A Not to my knowledge.

8 Q Are they dressed okay, their hair fixed, nails done?

9 A I would say no.

10 Q Okay. Well, I --

11 A Not to my -- what I would consider -- I wouldn't consider
12 them clean or fixed or -- I mean, they had the bare minimum of
13 clothing on.

14 Q Did some of them look like they had been using drugs?

15 A I mean, I guess that's subjective on what somebody looks
16 like that uses drugs, but --

17 Q Well, were they shaking, were they -- their eyes red?

18 A Well, it depends on which one you are asking me about.

19 Q Well, let's go through each one then.

20 A Okay.

21 Q So the first one you talked to was Jane --

22 A Jane Doe 1.

23 Q Jane Doe 1. What did she look like?

24 A She was crying and shaking and was -- looked fearful.

25 Q But she's also the one that -- she wasn't crying and

Hurd - Cross

38

1 shaking until after she had been arrested, right?

2 A Correct, after we started talking or asking her questions
3 about Nathaniel Smith.

4 Q So, after you told her we know what's going on, you're
5 under arrest, we need to talk to you about Nathaniel Smith,
6 that's when she starts crying and shaking, right?

7 A Yes.

8 Q But before that, there doesn't seem to be a problem,
9 right?

10 A I mean, you're talking about seconds, maybe a minute of
11 time, so.

12 Q Okay. Well, would it be fair to say that these -- are the
13 girls all lined up in one row, are they separated?

14 A No, they're -- when I came in contact with Jane Doe 1, she
15 was in one room.

16 Q Okay. And you describe her as -- would it be fair to say
17 she looked vulnerable?

18 A Yeah.

19 Q Does she --

20 A She looks young.

21 Q She -- young. What about desperate?

22 A I don't know. I don't know how to answer that. I don't
23 know what desperate really looks like.

24 Q Well, did she look like she needed help?

25 A In my opinion, yes.

Hurd - Cross

39

1 Q Okay. So you talked to her a little bit. And in the
2 complaint, you mentioned that you talked to her before you
3 turned the recorder on to build rapport; is that right?

4 A Yes.

5 Q So, what does that -- what do you say to somebody when
6 you're trying to build rapport?

7 A I'm trying to assure them that they're in a safe place and
8 that what they're telling me will not be shared with everyone
9 else, and -- unless it goes through a judicial proceeding, you
10 know, of course I'd have to disclose it then. But I'm just
11 trying to make them feel secure.

12 Q So what did you tell her, in particular?

13 A I don't recall. I mean, it's a process, so there's lots
14 of things that --

15 Q Okay. So then, the next one there that night is Jane Doe
16 2?

17 A 2.

18 Q And what did she look like?

19 A Similar to Jane Doe 1, disheveled, not -- not very clean.

20 Q Do you have to build rapport with her, too?

21 A Yes.

22 Q And you don't question -- or you're talking to them there
23 at the hotel and it's not being recorded, right?

24 A No. No, this is -- I'm talking about -- that's later, at
25 the substation, when I'm talking to them.

Hurd - Cross

40

1 Q Okay. So, you're not talking to them at all there at the
2 hotel?

3 A In greater detail is when -- when I'm trying to do an
4 interview is at the substation.

5 Q Okay. Did you advise Jane Doe 2 that she was under
6 arrest, as well?

7 A I did not, because I didn't -- I didn't make contact with
8 her until we were at the substation, other detectives made
9 contact with her.

10 Q Is there anybody else that you -- you, personally, advised
11 they were under arrest that night?

12 A No.

13 Q Okay.

14 A Well, except for Mr. Smith.

15 Q Mr. Smith. So then, later on, at the substation, Jane Doe
16 3 and 2 advised that Mr. Smith had recruited them; is that
17 right? Do I have the Jane Does right?

18 THE WITNESS: Do we have a 3?

19 MS. BRYANT: I think in the complaint we had --

20 MS. DRIGGERS: In the complaint.

21 MS. BRYANT: -- a Jane Doe 3. That Jane Doe 3 is
22 Marjorie Lee.

23 THE WITNESS: Okay.

24 MS. DRIGGERS: Okay.

25 BY MS. DRIGGERS:

Hurd - Cross

41

1 Q So, one of these girls was from Florida; is that right?

2 A Correct.

3 Q Did she tell you what she was doing for a living in
4 Florida?

5 A I believe she was prostituting there.

6 Q So she had a history of prostitution before she ever met
7 Mr. Smith?

8 A I believe so.

9 Q Did you run her criminal record?

10 A I believe it was run that night, yes.

11 Q And does she have a history of loitering, prostitution,
12 drug use, anything like that?

13 A I don't recall those. She may have, but I don't recall
14 those.

15 Q And what did she say about how it is that they got from
16 Florida to Arkansas?

17 A I believe they drove.

18 Q Was she forced to come here?

19 A No.

20 Q So she wasn't afraid of him then?

21 A I don't -- I don't know. She -- she agreed to work for
22 him, she was recruited, and through that process, she -- he
23 believed it would be better if they worked in Little Rock.
24 And I believe that Marjorie was with them. She got arrested
25 in Florida. And therefore, they felt like they needed to

Hurd - Cross

42

1 leave Florida.

2 Q Marjorie was arrested in Florida?

3 A Yes.

4 Q Okay. For what?

5 A I believe it was prostitution.

6 Q And she's a dancer, right? Isn't she the one that works
7 at the Paper Moon?

8 A She said she did.

9 Q Have you tried to verify that with Paper Moon?

10 A Not yet.

11 Q Okay. So it could be true that she works at Paper Moon?

12 A I don't believe she currently works there.

13 Q Okay. Well, she's in jail now, right?

14 A Right.

15 Q Did this girl from Florida, did she ever say that Mr.
16 Smith had hit her or hurt her?

17 A No.

18 Q Okay. And Marjorie either?

19 A No.

20 Q Because Marjorie says that the cut on her eye was from
21 work, right?

22 A Correct.

23 Q And she sought medical treatment for that, right?

24 A Yes.

25 Q So, after this bust, I guess on the 29th, Mr. Smith bonds

Hurd - Cross

43

1 out on the 1st, right --

2 A Correct.

3 Q -- that's what the bond papers showed? So then, tell me
4 again how it is that he was arrested? So what happens between
5 the 1st of May and the 15th?

6 A We did a complaint.

7 Q Uh-huh.

8 A And we checked Backpage on a daily basis looking for
9 various ads. We saw the pictures on Backpage of the original
10 girl that we had received the complaint about, Patrece.

11 Q The one that looked underage?

12 A No.

13 Q Okay.

14 A The one where it was taken down, where I was trying --

15 Q Okay. Patrece?

16 A Yes, Patrece. And therefore, we made a -- organized an
17 operation around that, where Detective Bratton made a date
18 with her.

19 Q So, when -- when these pictures are getting posted, who is
20 posting the pictures?

21 A In these particular situations, we were told that Marjorie
22 Lee and Nathaniel Smith were posting the ads.

23 Q So when Mr. Smith is in jail, and ads pop up, that's
24 Marjorie that's posting them?

25 A No. In that particular instance, Patrece told us that she

Hurd - Cross

44

1 had posted the ad.

2 Q So, Patrece knows how to use the phone, knows how to use
3 Backpage, and she can post the ads on her own?

4 A I believe she was taught by Marjorie.

5 Q Okay. So, if Mr. Smith is in jail, who is she giving her
6 money to for her --

7 A She's work -- she stated she was working for herself.

8 Q Okay. Did she tell you that she had worked for herself
9 before?

10 A Yes.

11 Q So, this wasn't her first time knowing how to -- to make
12 these dates?

13 A No, I'm sorry -- I'm sorry -- I'm thinking of another
14 girl. No, she -- Patrece stated that she had not prostituted
15 until she met Nathaniel Smith.

16 Q Okay. Who is the other girl that had prostituted and can
17 basically hold her own?

18 A Jane Doe 2. Sorry.

19 Q Well, and we know that the girl from Florida can do it on
20 her own, too, right, because she's -- she was apparently doing
21 that in Florida before she met Mr. Smith?

22 A That's Jane Doe 2.

23 Q Oh, that is Jane Doe 2?

24 A That's who I was talking about. Yes.

25 Q Okay. What about Marjorie, she's got a history of that,

Hurd - Cross

45

1 too, right? You said that in Florida --

2 A Yes.

3 Q So, the only one of these girls who say that they haven't
4 been a prostitute before they met Mr. Smith is Patrece?

5 A And Jane Doe 1.

6 Q Okay. So, let's talk about the room at the Motel 6.

7 Patrece tells you that Mr. Smith is there, right?

8 A Correct.

9 Q And then what happens?

10 A She tells us that he has a new girl working for him, that
11 goes by the name of Sonia. She showed us the ad on Backpage.
12 We, again, organized an operation where Detective Bratton made
13 a date with her.

14 Q Okay. So he shows up. He -- or he's calling, I guess --
15 well, I'll ask him. He shows up. And then what happens?

16 A They do the date, she's placed under arrest, and she's
17 asked if she knows where Nathaniel Smith is, and she tells us
18 where he is.

19 Q And where is he?

20 A In a room next door.

21 Q Was that room reserved under his name?

22 A Which room, the one she was in or the one --

23 Q Uh-huh. Both -- either one of them?

24 A I believe the one that she was in was reserved in his
25 name.

Hurd - Cross

46

1 Q Okay. What about the room where he was found?

2 A I believe that was in someone else's name.

3 Q Did you have a date of when that room had been rented?

4 A No.

5 Q Did you get the hotel records?

6 A We're in the process of trying to gather all those.

7 Q Okay. So then, how is -- tell us again how it is that
8 this gun was found.

9 A Okay. The day after the arrest of Mr. Smith, the
10 management of the hotel contacted law enforcement and advised
11 that while they were cleaning the room they had found this --
12 this gun.

13 Q Okay. But there was more -- more than Mr. Smith had
14 occupied that room, right?

15 A Yes.

16 Q And you said there was a Hispanic male?

17 A Yes.

18 Q Did you talk to him about anything?

19 A I did not. I was not at that scene. Other detectives
20 told me that there was a Hispanic male there.

21 Q Okay. So if any of those people had been interviewed,
22 there will be a police report about it?

23 A Correct.

24 Q And if there's not a police report about it, it's fair to
25 say nobody else was asked?

Hurd - Cross

47

1 A I don't know. I mean, the gun was found the next day, so
2 the detectives wouldn't have known to ask.

3 Q Okay. Well, if there had been other -- if there's other
4 people in the room, what it sounds like to me is that nobody
5 asked any of those other people in the room whether that gun
6 belonged to them?

7 A They didn't know the gun was there.

8 Q But when they did know the gun was there, when they found
9 out, they didn't go to the hotel clerk and get the name and
10 phone number of the other people who had been in the room?

11 A Yes, they -- they talked with the person that had rented
12 the room. The other people were just -- have scattered to the
13 wind.

14 Q Okay.

15 A I mean, they're --

16 Q So there just wasn't a way to talk to them?

17 A Right.

18 Q Okay. Were any pictures taken of this gun and its
19 position in the room? No?

20 A I don't believe so. I'm not -- I'm not sure, but I don't
21 believe so.

22 Q What about this slit in the bed, any pictures taken of
23 that?

24 A No.

25 Q And you say that's -- the girls had told you that's where

Hurd - Cross

48

1 he --

2 A Yes.

3 Q -- keeps the gun? Was there anything found in the
4 mattress?

5 A No.

6 Q And what kind of shells were they that were found?

7 A .38.

8 Q And what was the gun?

9 A The gun was a .45.

10 Q Okay. I know we heard Mr. Smith on the recording a minute
11 ago, how long had he been in the interview room before you
12 turned that recording on?

13 A Without looking back at my notes, I -- I can give you just
14 an estimated, I would -- probably an hour and a half, maybe
15 two hours. I was conducting the other interviews.

16 Q Okay. So, but had he been in there before you interviewed
17 him?

18 A He was there while I was interviewing the other ones, so,
19 yes.

20 Q Okay. Was he drug tested that night?

21 A No.

22 Q Was anybody aware of his previous history of mental health
23 issues?

24 A No.

25 Q So you didn't know that he's been diagnosed before with

Hurd - Cross

49

1 paranoia?

2 A No.

3 Q And at what point is it that you went over his Miranda
4 rights?

5 A When I went into the room to question him.

6 Q So, he's in the room, that's when you question him, but
7 then you leave and he's in the room for two more hours?

8 A No.

9 Q No?

10 A No. He was in the room while I was questioning the other
11 witnesses in the case. That was the two hour time period that
12 I'm talking about.

13 Q Okay.

14 A When I was through interviewing all the other people is
15 when I went to -- to talk with him.

16 Q So that's why we don't have it on the recording, because
17 you told him before?

18 A Told him? I'm sorry, I'm not following.

19 Q Sorry. You told him about his rights before --

20 A Yes.

21 Q -- you turned the recorder on?

22 A Correct.

23 Q Okay. That's what I'm trying to figure out, if it was
24 before or after the recording?

25 A Yes, it was before the recording.

Hurd - Redirect

50

1 Q Okay. And he's not hollering out at anybody there but --
2 but MarMar, right?

3 A At that time, yes.

4 MS. DRIGGERS: Okay. I think that's all my
5 questions. Thank you.

6 THE COURT: Redirect?

7 REDIRECT EXAMINATION

8 BY MS. BRYANT:

9 Q Can you just explain again the circumstances surrounding
10 your -- this recording that we played, why did you record it?

11 A I recorded it to document his behavior and his attitude
12 during that time period and how he was calling out to the
13 girls, and telling them not to talk, and that these were just
14 misdemeanor charges, and that sort of thing.

15 Q Okay. And I want to make sure, the ammunition was found
16 in the room with Mr. Smith -- rented under Mr. Smith's name,
17 correct?

18 A Correct.

19 Q And then the other room was the gun that was loaded?

20 A Correct.

21 Q Okay. Talk about that, Mr. Smith rented rooms, correct?

22 A Yes, he did.

23 Q So, the girls told you things about Mr. Smith, but you
24 also have other corroborating evidence?

25 A That is correct.

Hurd - Redirect

51

1 Q Okay. When you talked to the girls, did you talk to them
2 separately?

3 A Yes, I did.

4 Q And was what they told you, their testimony, essentially
5 the same?

6 A Yes.

7 Q About their working with Mr. Smith?

8 A Yes.

9 Q I want to talk about was Mr. Smith there 24/7 with the
10 girls?

11 A I don't believe so.

12 Q Okay. Did they tell you what would happen if Mr. Smith
13 were to leave?

14 A Yes.

15 Q What did they say?

16 A That Marjorie Lee would be in charge.

17 Q Okay.

18 A And would handle things and report back to him if they
19 were out of line or had done something they shouldn't have
20 done.

21 Q Okay. I want to talk about how long have you been working
22 in human trafficking?

23 A Approximately three years.

24 Q Okay. Have you done training in human trafficking and
25 everything?

Hurd - Redirect

52

1 A Yes, I have.

2 Q In your experience, when you first meet victims of human
3 trafficking, what do they usually tell you at the beginning?

4 A They usually don't want to talk to me.

5 Q Okay. Does it usually take a while for them to trust you?

6 A It does.

7 Q In your experience, do they usually try to protect the
8 person that they're working for?

9 A Yes.

10 Q And in this instance -- I think Ms. Driggers had asked you
11 a question about what made you believe that these girls were
12 scared -- after talking with them, why do believe that they
13 were scared of Mr. Smith?

14 A Because of the way they described his demeanor, his
15 mannerisms, that he was very intimidating, the things that he
16 told them about his background, his past history, that he --
17 they had witnessed or either had been told about him hitting
18 on Marjorie, that they had either heard it through the walls,
19 that sort of thing.

20 Q Okay. What would they say about -- when they observed him
21 treat Marjorie that way, were they scared that that's how they
22 were going to be treated if they didn't --

23 A Yes.

24 Q And is that why they told you they believed that he beat
25 up on Marjorie?

Hurd - Recross

53

1 A Yes.

2 MS. BRYANT: Okay. I think that's all I have, Your
3 Honor.

4 RECROSS EXAMINATION

5 BY MS. DRIGGERS:

6 Q Detective Hurd, do you have any evidence that these girls
7 have been -- or that anybody has posted ads on Backpage about
8 these girls since Mr. Smith and Marjorie have been
9 incarcerated?

10 A There -- yes, the ad has been posted on Patrece, the one
11 that we made that arrest on.

12 Q Okay. Are you all continuing to monitor Backpage or any
13 of the other sites to see if these girls are advertising
14 themselves?

15 A Yes.

16 Q Okay. And, to date, have you found any other evidence?

17 A No.

18 Q Okay. Thank you.

19 THE COURT: Follow up?

20 MS. BRYANT: No, Your Honor.

21 THE COURT: Detective, the address, 2307 South
22 Harrison, whose is that, what's the --

23 THE WITNESS: It's my understanding that it's a
24 relative of Mr. Smith. I'm not sure if it's his mother or his
25 father.

Hurd - Presiding Official

54

1 THE COURT: Do you know, does he reside there?

2 THE WITNESS: That is the address he gave to be where
3 he lived, but I'm not sure.

4 THE COURT: All right. And then tell me about the
5 Springfield .45 caliber, you were -- or police were notified
6 beforehand of the fact that he had this firearm, or was it
7 after the fact? And when I say beforehand, being before you
8 found it, or was it after you had found it that you later went
9 and found out from the witnesses that he carried such a
10 similar type of weapon?

11 THE WITNESS: No, they told us before that, that he
12 had carried a weapon.

13 THE COURT: When did you -- when were you notified of
14 that, about when, in relation to --

15 THE WITNESS: That was on the April 29th, when we
16 made the first contact with Jane Doe 1 and 2.

17 THE COURT: Okay. And Jane Doe 1 specifically
18 identified it as a Springfield .45 caliber?

19 THE WITNESS: No, she did not. She just stated that
20 she had seen him with a gun.

21 THE COURT: She just said a gun?

22 THE WITNESS: Yes.

23 THE COURT: Okay. And then, arrest number one, he's
24 in the room and he won't come out of the room. How do
25 officers get him out of the room -- this is at La Quinta, how

Hurd - Presiding Official

55

1 do they ultimately get him out of the room?

2 THE WITNESS: The arrest where he -- the warrant
3 arrest, is that --

4 THE COURT: First arrest.

5 THE WITNESS: Very first arrest?

6 THE COURT: La Quinta.

7 THE WITNESS: Honestly, I'm not sure. I'm not sure
8 if it's listed in the incident report. But typically, after a
9 few -- time passes, he comes out on his own, that's what he
10 did on the past two arrests.

11 THE COURT: Okay. All right. So, time passed, but
12 during arrest number two, I mean, police knew or had
13 information that he was potentially armed?

14 THE WITNESS: That -- we learned during that, that
15 investigation, that -- on the 29th, that he had a weapon, but
16 not until we were able to interview the girls down at the
17 substation.

18 THE COURT: Okay. So, I'm -- I'm not following you
19 then. So, on the second arrest, when did you -- when did
20 police know or have information that he carried a firearm?

21 THE WITNESS: After we interviewed Jane Doe 1 and
22 Jane Doe 2.

23 THE COURT: Okay. So, it was after that whole scene
24 at the second -- the Atria hotel?

25 THE WITNESS: Yes. Yes.

Hurd - Presiding Official

56

1 THE COURT: Okay. It was after that, that you were
2 notified. Okay. All right. So, police knock on the door,
3 and then after some time though, it seemed like he came out on
4 his own?

5 THE WITNESS: Yes.

6 THE COURT: After the Hispanic male opened the door?

7 THE WITNESS: The Hispanic male was on the third
8 arrest.

9 THE COURT: Okay.

10 THE WITNESS: That was at the Motel 6.

11 THE COURT: Okay. All right. Now, I'm like -- I'm
12 obviously losing track of this. Okay. Is it me or is it --
13 am I --

14 THE WITNESS: It's confusing.

15 MS. BRYANT: It's confusing with the Jane Does and
16 the hotels.

17 THE COURT: Well, the Jane Does aren't bothering me.
18 Okay. So, all right, we have the La Quinta, we have the
19 Atria, and we have Motel 6.

20 THE WITNESS: Correct.

21 THE COURT: In that order?

22 THE WITNESS: Correct.

23 THE COURT: Okay. In the order of one, two, three,
24 where do you learn about the firearm?

25 THE WITNESS: After the interviews from the Atria.

Hurd - Presiding Official

57

1 THE COURT: That's two?

2 THE WITNESS: Yes.

3 THE COURT: Okay. So, number three is you know about
4 the firearm?

5 THE WITNESS: Correct.

6 THE COURT: All right. And that's where the firearm
7 is discovered?

8 THE WITNESS: Correct.

9 THE COURT: Okay. So, what I'm getting at is, when
10 police knock on the door and they know that Mr. Smith is in
11 that room, and that's where the Hispanic male is, as well?

12 THE WITNESS: Yes.

13 THE COURT: Police know there is a firearm
14 potentially involved in this, that Mr. Smith potentially
15 carries a firearm?

16 THE WITNESS: Correct.

17 THE COURT: And so, I just want to know what -- what
18 went down? It seems to me that it would be a bigger deal to
19 knock on the door, Mr. Smith is not opening the door, and
20 there's information that Mr. Smith may be armed. That's my
21 whole question. And I don't know that I really understood.
22 It seems like it's just kind of a knock on the door, hey, man,
23 come out, and then the Hispanic male opens the door. Doesn't
24 seem to me, that my experience is, with Little Rock Police
25 Department, that it would be so casual. And I just kind of

Hurd - Presiding Official

58

1 want to know -- and maybe you don't know.

2 THE WITNESS: I was not at that scene, so I'm not
3 certain on how that all went down. What I was told was that
4 Sergeant Hamby saw him stick his head out the door. Shuts the
5 door. Sergeant Hamby goes over to the door, knocks. He calls
6 for other detectives to come in to assist that were there on
7 the scene, as well, that were in the parking lot. And they
8 knock again, and then the Hispanic male comes to the door,
9 opens the door, and they find Mr. Smith in the bathroom.

10 THE COURT: Okay. So, Mr. Smith is in the bathroom.
11 Okay. I just -- I mean, I don't know, I'd like to hear more
12 about what happened there, because I think it's important for
13 my determination, but I don't know that this witness really
14 knows the details on where I want to know.

15 And then, Detective Hamby would have known about the
16 firearm though, correct?

17 THE WITNESS: Correct.

18 THE COURT: Okay. And then, that was -- again, what
19 I want to make clear in my mind, is you know at arrest number
20 two, Atria, that's when the information is revealed that there
21 is this firearm; don't know what kind of firearm, but witness
22 says he carries a firearm?

23 THE WITNESS: Correct.

24 THE COURT: Then Motel 6 arrest goes down. All
25 right. And then, the day after arrest number three, Motel 6,

Hurd - Redirect

59

1 is when that firearm is later discovered in the hotel room?

2 THE WITNESS: Correct.

3 THE COURT: Okay. All right. That's what I needed
4 to know.

5 Do you all have any follow up questions based on my
6 questions?

7 MS. DRIGGERS: No.

8 REDIRECT EXAMINATION

9 BY MS. BRYANT:

10 Q Just to clear up, the firearm that was found after the
11 third arrest was the Springfield gun. Where, in that scheme
12 of things happened, did you learn that he had a Springfield
13 gun; when did the girl describe that to you guys?

14 A During that third arrest.

15 Q Okay.

16 A The girl that had posted as Sonia, she told us that --
17 that she had seen him at least three times that day with a
18 Springfield .45.

19 Q Okay. And did the hotel tell you guys where the gun was
20 located when they found it?

21 A Yes.

22 Q Where was it?

23 A It was up underneath hidden in the end table.

24 MS. BRYANT: Okay. That's all I have.

25 THE COURT: Okay. Well, and that is important. So,

Hurd - Redirect

60

1 after arrest number three, a witness tells you specifically
2 about the firearm being a Springfield manufactured .45
3 caliber; she specifically describes it by manufacturer and
4 caliber?

5 THE WITNESS: Yes.

6 THE COURT: Okay. And then, but -- that's -- is that
7 before or after it's in police possession?

8 THE WITNESS: That is before.

9 THE COURT: Okay.

10 THE WITNESS: Because that was the night of the third
11 arrest, and we did not have the weapon until the next day.

12 THE COURT: Got you. Okay. All right.

13 FURTHER REDIRECT EXAMINATION

14 BY MS. BRYANT:

15 Q And can you -- can you kind of tell Judge, explain, is
16 Springfield written pretty clearly on the firearm?

17 A It is, yes.

18 Q Okay. So it's something that she could have observed if
19 she saw it on it?

20 A Yes.

21 MS. BRYANT: That's all.

22 THE COURT: All right. Thank you. That's why -- I
23 heard you testify that she identified it as a Springfield, but
24 it wasn't until the third arrest. And my question, I guess,
25 was -- my -- it was bad questioning when I asked you after the

Bratton - Direct

61

1 second arrest. But after the second arrest, you still knew he
2 carried a firearm?

3 THE WITNESS: Correct.

4 THE COURT: Okay. Anything else?

5 MS. BRYANT: That's all I have.

6 THE COURT: All right. You may stand down. Thank
7 you.

8 (Witness stands down.)

9 THE COURT: You may call your next witness.

10 MS. BRYANT: Detective Bratton.

11 DAVID BRATTON, GOVERNMENT'S WITNESS, SWORN.

12 DIRECT EXAMINATION

13 BY MS. BRYANT:

14 Q Can you please introduce yourself to the Court?

15 A I'm sorry, ma'am, I didn't --

16 Q Can you please introduce yourself to the Court?

17 A Oh. I'm David Bratton.

18 Q And how are you employed?

19 A I'm a detective with Little Rock Police Department vice
20 detail.

21 Q Okay. And how long have you been with LRPD?

22 A 16 and a half years.

23 Q Okay. And were you present on the night of April 29th,
24 when Mr. Smith was arrested?

25 A Yes.

Bratton - Direct

62

1 Q And were you located outside of the interview room when
2 that tape was being played -- or was being recorded?

3 A Yes.

4 Q Okay. And did you document some of the statements that
5 Mr. Smith was making?

6 A I did document some statements that were made prior to the
7 tape being turned on.

8 Q Okay. And can you just tell the Court what some of those
9 statements are?

10 A Yes. One of his statements were, and I'm quoting, quote:

11 "Ladies, nobody talk -- if nobody
12 talks, this is just misdemeanor
13 bullshit."

14 Unquote. Quote:

15 "Candy, they ain't got nothing."

16 Unquote. Quote:

17 "Don't say shit."

18 Unquote. And he was yelling these off and on.

19 Q Okay. And were the other witnesses, were they within
20 earshot of where they could hear him?

21 A Yes.

22 Q Okay. Now, were you also present when Mr. Smith was taken
23 to the hospital?

24 A Yes.

25 Q And did Mr. Smith -- what was his behavior at the

Bratton - Direct/Cross

63

1 hospital?

2 A You know, he would sleep off and on and he'd be real
3 docile, and then he'd get real agitated for no apparent
4 reason.

5 Q Okay. And did he make some statements then, that day,
6 that you took note of?

7 A Yes. He was talking to me and he said, quote:

8 "Y'all ain't got shit. Those
9 girls y'all think y'all got
10 against me, those girls are long
11 gone. Those girls won't say
12 shit."

13 Unquote. Quote:

14 "Those girls ain't gonna show up.
15 Y'all fucked up on this one."

16 Unquote. Quote:

17 "I've got the best lawyer in the
18 state. Y'all are gonna pay. The
19 only thing I'm guilty of is
20 renting the rooms for points."

21 Unquote.

22 Q Okay. And did there ever come a time when you were trying
23 to take photos of him?

24 A Yes.

25 Q And can you describe to the Court when you were trying to

Bratton - Direct/Cross

64

1 take photos of his hospital bracelet?

2 A Yes. I was attempting to photograph the arm he was saying
3 was injured. And he had a name tag on his left arm, you know,
4 the hospital had placed on him. I reached down and touched
5 the name tag to pull it back to see if there was any injury
6 due to handcuffs, and when I touched that, Mr. Smith began
7 screaming and he -- he was yelling, and very loudly, quote:

8 "Nurse, nurse, he's hurting me.

9 Nurse, he's wrenching my arm. I
10 demand to speak with the head of
11 the hospital."

12 Unquote.

13 MS. BRYANT: Okay. May I have one moment, Your
14 Honor?

15 THE COURT: You may.

16 MS. BRYANT: That's all I have.

17 THE COURT: Cross?

18 CROSS EXAMINATION

19 BY MS. DRIGGERS:

20 Q Detective Bratton, right?

21 A Yes, ma'am.

22 Q I'm going to ask you some questions about the statements
23 that Mr. Smith gave to you, but first I want to talk about
24 these dates that you arranged with some of the girls.

25 A Yes, ma'am.

Bratton - Cross

65

- 1 Q You -- were you the one to personally search online --
- 2 A Yes.
- 3 Q -- for these girls?
- 4 A The Backpage.
- 5 Q Okay.
- 6 A Yes.
- 7 Q And you made the phone calls?
- 8 A Yes, ma'am.
- 9 Q Who answered the phone?
- 10 A What particular day are you talking about?
- 11 Q Okay. Let's talk about the first day.
- 12 A Okay. On the 29th? April 29th?
- 13 Q Yes. Yes, that's after the La Quinta incident. Yes, the
- 14 29th.
- 15 A Okay. Yes.
- 16 Q So you place a call to that number and who answers?
- 17 A It was a female.
- 18 Q Okay. And what does the female say?
- 19 A We made a date to arrive, she gave me the address to
- 20 arrive at 6100 South University, the Atria hotel.
- 21 Q Did she say -- I mean, is she calling all the shots or is
- 22 she saying I need to run this by my boss or, you know --
- 23 A No, on the phone --
- 24 Q -- let me call you back?
- 25 A -- no, ma'am. On the phone she's -- just she and I

Bratton - Cross

66

1 talking.

2 Q Okay. So she didn't have to call you back to confirm,
3 everything was done just like that?

4 A Yes.

5 Q Okay. And then you show up and she's in the room?

6 A Yes. She had actually text me the address to the hotel.
7 After our phone conversation, then she text me the address to
8 the hotel. But, yes.

9 Q Did you save all those text messages?

10 A Yes.

11 Q So you show up and what does she look like?

12 MS. BRYANT: Judge, I don't really know what the
13 relevance of this is for today's hearing.

14 MS. DRIGGERS: Well, one of the allegations is that
15 these girls are damaged and hurt, and he's the one that's
16 first on the scene, so I'm just asking what his impression
17 was.

18 THE COURT: Why don't you narrow it then? I imagine
19 that the Government is concerned about the safety of the
20 witness and the identification of the witness. Is that what
21 the objection is?

22 MS. BRYANT: Yes, Your Honor. And I think Detective
23 Hurd testified that Jane Doe 1, who we're talking about, did
24 not have any physical injuries on her, and we'll concede that
25 she didn't have any physical injuries. And I think Detective

Bratton - Cross

67

1 Hurd described her adequately, at least her demeanor, and that
2 she looked disheveled and --

3 THE COURT: I'm going to let Ms. Driggers ask the
4 questions and, you know, just -- I'll let the detective
5 describe more of like the emotional or physical outlook,
6 without saying that she was either a white female or -- is
7 that fair enough? I mean --

8 MS. BRYANT: Yes, Your Honor.

9 THE COURT: All right.

10 BY MS. DRIGGERS:

11 Q So, you don't have to describe her physical appearance.

12 A Yes, ma'am.

13 Q I'm not trying to give away her identity.

14 A Yes, ma'am.

15 Q But was she scared, was she timid, was she --

16 A She was -- she was nervous. She was nervous. You know,
17 when I entered the room, she was nervous. More nervous than
18 most girls that I deal with out there.

19 Q And this is all being recorded, right?

20 A Audio recorded.

21 Q Audio. And she tells you to put the money in the drawer?

22 A Yes.

23 Q And then you give a signal?

24 A Correct. I give a verbal signal.

25 Q Okay. At any point, does she tell you she needs help?

Bratton - Cross

68

1 A Not me, no. Once I give the signal, the arrest team
2 enters the room, and I get myself together and I leave. The
3 arrest team handles it from there.

4 Q Okay. What about the -- the second time, the second date,
5 this is with the new girl, right? Do I have that right?

6 A I'm not sure which -- which --

7 Q The one at the Motel 6.

8 A Okay. That's actually the third one.

9 Q Okay. So then who is the second one?

10 A The second one would have been Patrece.

11 Q Okay. Patrece. Anything stand out to you about her when
12 you met her?

13 A Our conversation was one hundred percent through text.
14 Once I met her, she was just real busy. You know, we made the
15 date in person, and then I gave the signal, arrest team came
16 in and I left.

17 Q So she wasn't as nervous as the other one was?

18 A I wouldn't say -- no, she was not as nervous as the first
19 girl, no.

20 Q Okay. Did she have any signs of bruises or lacerations on
21 her?

22 A She kept the lights out. The room was extremely dark. I
23 could not tell you if she had bruises or not.

24 Q Okay. And then the third one, at the Motel 6 --

25 A Yes.

Bratton - Cross

69

1 Q -- this is with the new girl, Sonia, right?

2 A Yes. Sonia.

3 Q Okay. And how did you make that date, did you -- you
4 called a number?

5 A Right. There was a ad, then we called the number, and I
6 spoke with her and she gave me directions to the -- to the
7 hotel.

8 Q So, all the times you're making these dates, you're
9 speaking to the girl herself?

10 A The -- not -- not Patrece. That was one hundred percent
11 text messages.

12 Q Okay. But you don't have to go through somebody else to
13 get to the date, you're speaking to the date directly?

14 A Oh, when I -- correct -- on Sonia, I spoke directly to
15 Sonia -- or I spoke directly to a female. When I arrived on
16 scene at the room that the female on the phone gave me, Sonia
17 was there.

18 Q Okay. And what about her, did she appear nervous?

19 A Yes, she was nervous.

20 Q Did she say anything to you like, help, I need out of
21 here?

22 A Not at that time. Not before the deal was made. Once the
23 deal was made and the arrest team got there, she -- you know,
24 she just seemed real willing to help.

25 Q Well, sure, she had been arrested at that point, right?

Bratton - Cross

70

1 A She had been arrested, yes.

2 Q Okay. Okay. And then with regard to Mr. Smith's
3 statements, you -- you didn't ever drug test him, right?

4 A No.

5 Q Do you know if the hospital ran any blood work to show if
6 he was high?

7 A I have no idea what the hospital did, ma'am.

8 Q Okay. And are you aware that he actually does have like
9 -- has had surgery on his arm?

10 A No, ma'am. I mean, he -- he verbally told us that. I --
11 you know, I don't know his medical history.

12 Q Okay. And you didn't know his other prior mental history
13 of --

14 A No, ma'am.

15 Q -- paranoia?

16 A No, ma'am.

17 Q Okay. Did you call any of his family to find out?

18 A I did not.

19 MS. DRIGGERS: Okay. I don't have any other
20 questions. Thank you.

21 THE COURT: Redirect?

22 MS. BRYANT: No, Your Honor.

23 THE COURT: Detective, once the signal goes, do you
24 leave leave, or do you actually participate in the arrest or
25 anything like that?

Bratton - Cross

71

1 THE WITNESS: Your Honor, typically, once I give the
2 signal, the arrest team comes to the door. If they cannot get
3 in the door, I usually open the door, and the -- the uniformed
4 officers, or officers come in with police markings, they take
5 the suspect into custody. Usually, I don't get involved in
6 that unless I -- unless there is going to be an officer safety
7 issue, then I would. But up until this point, I have not
8 gotten involved. The arrest team takes custody of that
9 person.

10 THE COURT: And were you -- did you witness anything
11 with regard to the arrests of Mr. Smith on any of the three
12 events?

13 THE WITNESS: No, sir. No, sir, I didn't see any of
14 his arrests in person.

15 THE COURT: All right. Any follow up questions based
16 on my questions?

17 MS. BRYANT: No, Your Honor.

18 MS. DRIGGERS: No, Your Honor.

19 THE COURT: You may stand down, sir. Thank you.

20 THE WITNESS: Thank you, Your Honor.

21 (Witness stands down.)

22 THE COURT: You may call your next witness.

23 MS. BRYANT: Todd Hurd. Detective Todd Hurd. My
24 fault.

25 THE COURT: He's well known in these community -- or

T. Hurd - Direct

72

1 in this community, so we understand.

2 TODD HURD, GOVERNMENT'S WITNESS, SWORN.

3 DIRECT EXAMINATION

4 BY MS. BRYANT:

5 Q Good afternoon, Detective. Can you please introduce
6 yourself to the Court?

7 A My name is Todd Hurd. I'm a detective with the Little
8 Rock Police Department's intelligence unit.

9 Q Okay. And let's talk about your background in law
10 enforcement. Where did you start?

11 A Could we actually start before that?

12 Q Sure.

13 A Okay. Great. My first experience was with Youth Home,
14 Incorporated, here in Little Rock, working as a residential
15 treatment counselor. I worked with psychiatrically disturbed
16 young people at that facility. I -- under that setting, I
17 dealt with gang members, both male and female, that I worked
18 with at that facility.

19 After Youth Home, I was employed as a detention officer
20 with the North Little Rock Police Department when the jail was
21 operational in North Little Rock. Once again, working with
22 gang members in that setting, both adults as well as
23 juveniles.

24 And then after my conclusion of employment with North
25 Little Rock, I was hired by the Little Rock Police Department,

T. Hurd - Direct

73

1 and as we all start out, started out in the patrol division
2 and worked the East side of Little Rock, on the midnight
3 shift, for a couple of years, worked a lot of gang related,
4 narcotics related incidents. I had five housing projects in
5 my patrol sector during that time period.

6 And due to the experience that I had gained from these
7 previous jobs, plus my experience with LRPD on patrol, when a
8 unit was formed in the mid '90s -- well, early '90s, I guess,
9 called the Zero Tolerance Task Force, I was asked to
10 participate in that, which I did. It was an anti-gang, anti-
11 drug task force that was comprised of uniformed, non-uniformed
12 police personnel, and we worked citywide within the city of
13 Little Rock.

14 And at the conclusion of the Zero Tolerance Task Force, I
15 was asked to come to the intelligence unit and work gang
16 intelligence, which I have done since 1995.

17 Q Okay. So how long is it you've been working in gang
18 intelligence -- or working with gangs in --

19 A If we're not just looking at the law enforcement aspect of
20 it, I've been working with gang members for around 25 years.

21 Q Okay. Do you give training on gang activity?

22 A Yes. I've -- of course, as everyone else, I started out
23 attending trainings, and attended numerous gang schools
24 throughout the United States, including Advanced Gang
25 Investigations in Jacksonville, Florida. But, yes, you are

T. Hurd - Direct

74

1 correct, now I have gotten to the point now where I instruct.
2 I teach for the Little Rock Police Department, at the Little
3 Rock Police Academy, for the Department of Community
4 Corrections, and also the Department of Homeland Security, on
5 gangs. I'm also an instructor with the Criminal Justice
6 Institute, as well.

7 Q Okay. And have you testified as an expert on gangs in
8 federal and state court?

9 A Yes. In state court, in both adult and juvenile cases,
10 and in federal court, as well. That is correct.

11 Q Okay. And during your time investigating gang activity,
12 have you come across Nathaniel Smith?

13 A Yes, we have met on numerous occasions.

14 Q Okay. Can you tell the Court the intelligence that you've
15 gained on Mr. Smith during your time?

16 A The first indication that my division, which is the
17 special investigations division, has on file is from 1993,
18 when Nathaniel Smith was stopped in the area of 20th and
19 Valentine with numerous other subjects that had been
20 identified as members of the Monroe Street Hustlers, which is
21 one of our local Blood gangs. I, myself, however, did not
22 have -- start having personal contact with Nate until about
23 1994. And that contact lasted, off and on, through Zero
24 Tolerance and through my working with the street narcotics
25 unit, as well, during the mid to late '90s.

T. Hurd - Direct

75

1 Q Okay. And did you receive, during that time, intelligence
2 on Mr. Smith's affiliation with the Monroe Street Hustlers and
3 his position in that gang?

4 A Over the years, we have developed through other
5 investigations and, you know, ongoing investigations that
6 state and federal agencies have going on against gang activity
7 here within the city of Little Rock, we are current -- we are
8 constantly receiving information on gang activity, the gangs
9 themselves, their structure, their organization, and their
10 membership. And starting as early as 1993, actually, before I
11 first met Mr. Smith, we had developed information that he was
12 a member at that time. But then we have developed information
13 since then that he was actually one of the original gangsters
14 or the OGs, as they're called, which means that he was one of
15 the founding members of this particular gang that was reported
16 to have been formed in 1989, and that he has maintained that
17 rank within the gang up to this date.

18 Q Okay. And can you just describe the -- I guess the
19 reputation that this gang has on the street?

20 A Well, during my entire time -- time period working gangs
21 with the Little Rock Police Department, we have dealt with
22 members of the Monroe Street Hustlers as both victims and as
23 suspects in numerous homicides and shootings here within the
24 city of Little Rock. Federal agencies have conducted
25 narcotics investigations, weapons investigations on his gang,

T. Hurd - Direct

76

1 as well as others. And we are currently having issues with
2 the Monroe Street Hustlers and other rival Blood gangs, and
3 part of that had to do with a flurry of killings that we had
4 here in the city around the end of 2013 and the beginning of
5 this year.

6 Q Okay. And has there actually been a task force
7 established?

8 A Yes, I'm currently assigned to Operation Cease Fire, which
9 is LRPD's attempt to reduce our homicide rate that we have
10 ever increasing here in the city of Little Rock.

11 Q Okay. And during your time researching gangs, can you
12 tell the Court about tattoos or ways that gang members
13 identify themselves with gangs?

14 A Tattoos are one of the mainstays of our gang members, and
15 gang members around the country and around the world, for that
16 matter. A lot of times they are used to mourn the dead,
17 identify the person as a member of a particular gang. And we
18 use tattooing for identification purposes. It's a great
19 intelligence tool that we utilize. It gives us information on
20 nicknames, on gang affiliation, all sorts of different types
21 of information we can get from that.

22 Q Okay. And did you review certain tattoos on Mr. Smith?

23 A Yes, I did.

24 Q And were some of those tattoos of interest to you?

25 A Yes, they were.

T. Hurd - Direct

77

1 MS. BRYANT: May I approach, Your Honor?

2 THE COURT: You may.

3 MS. BRYANT: May I have one moment, Your Honor?

4 THE COURT: You may.

5 MS. BRYANT: May I approach, Your Honor?

6 THE COURT: You may.

7 THE WITNESS: May I bug you for some water?

8 MS. BRYANT: Yes.

9 THE WITNESS: Thank you. I know that's not one of
10 your job duties, but I appreciate it. Thank you.

11 BY MS. BRYANT:

12 Q Okay. I'm showing you Government's Exhibit 1, 2, and 3.
13 Are these tattoos that you have actually observed on Mr.
14 Smith?

15 A No, I was -- I was advised that these were tattoos taken
16 of -- or I'm sorry -- photographs taken of his tattoos during
17 his time of contact during the course of this investigation.

18 Q Okay. Do you -- you, based on your experience, have an
19 understanding of what these tattoos mean; is that correct?

20 A Yes. Yeah, that is correct.

21 MS. BRYANT: Your Honor, I'd move for the admission
22 of Exhibit 1, 2, and 3. And I know Ms. Driggers wanted to
23 make sure that they were actually photographs of Mr. Smith, so
24 I can put Detective Hurd back on to say she was there when
25 those photos were taken.

T. Hurd - Direct

78

1 THE COURT: Let me ask, Ms. Driggers, what say you?

2 MS. DRIGGERS: I just don't think they've been
3 authenticated yet, but I don't have any objection to him
4 testifying about what the tattoos mean in his opinion, but I
5 think we need Detective Hurd to say that those were tattoos
6 that she saw on Mr. Smith. And we haven't heard that yet.

7 THE COURT: All right.

8 THE WITNESS: Do you want to do that now or --

9 MS. BRYANT: How would you like me to proceed? Do
10 you want me to --

11 THE COURT: Go ahead and finish your testimony and
12 then Officer Hurd -- or Detective Hurd can come back.

13 MS. BRYANT: Okay.

14 BY MS. BRYANT:

15 Q And do you know them well enough that if you give the
16 judge a copy you can explain them?

17 A I believe so. I may get them out of order, but.

18 THE COURT: Here, I can hold them up.

19 MS. BRYANT: Okay.

20 THE COURT: I've got Exhibit 1.

21 BY MS. BRYANT:

22 Q Exhibit No. 1, can you explain to the Court what that
23 means?

24 A Exhibit No. 1 is -- are the letters OG on Mr. Smith's
25 chest. In the gang culture, OG stands for original gangster,

T. Hurd - Direct

79

1 which not only would be informative for us if we didn't have
2 any background information on Mr. Smith, but the fact that we
3 have longstanding documentation on his gang, and that is the
4 rank that he maintains and is documented as in this gang, is
5 telling to me that we've got our information correct. If he
6 was considered a young member of the gang, he would have YG on
7 him, which would be young gangster. But the letters OG, for
8 original gangster, put him as one of the founding members of
9 his particular gang.

10 Q Okay. So, if you're a founding member, how do you rank, I
11 guess, in the hierarchy of that gang?

12 A You're in the upper echelon of that gang.

13 Q Okay. Let's talk about Exhibit No. 2.

14 A The bottom part of it is a little bit fuzzy, I think I
15 know what it says, but -- but since I'm guessing at this
16 point, I won't even really go on what the bottom says. The
17 top of, it says Mr. Nate, which is part of his gang alias,
18 which is Big Nate, he's gone by that in his neighborhood for
19 years. And he has that tattooed on his -- on his abdomen.

20 Once again, as I said, this is one of the reasons why we
21 review tattoos, because a lot of -- a lot of the gang members,
22 especially when they were young gang members, would put their
23 nicknames on their -- on their bodies. A lot of them,
24 however, over the years, have figured out that we use that
25 stuff to identify them as suspects and things of that nature,

T. Hurd - Direct

80

1 so a lot of them over the years, especially with the older
2 gang members, will either go and have those covered up, you
3 know, let's say if they don't really affiliate that much
4 anymore, or anything like that, or they will actually change
5 nicknames to something that they're not known by, by local law
6 enforcement.

7 Q Okay. And let's talk about Exhibit No. 3.

8 A That appears to be on the back of his neck. It is the
9 word omerta, which is actually Italian. The actual
10 translation for omerta is manhood, if you just looked at --
11 looked at it in an Italian dictionary. However, the common
12 usage of omerta is a code of silence. And basically what that
13 entails is that if you are man, you do not bring outside
14 officials, law enforcement, the courts, things of that nature,
15 into any type of conflict you have with others. So, for
16 example, if you are attacked and you are let's say stabbed,
17 under the omerta code, you, or someone that you assign to
18 carry it out, would carry out an act of revenge against the
19 subject that did this to you without you notifying law
20 enforcement, without you cooperating with law enforcement,
21 going and getting warrants, testifying in court, and things of
22 that nature. Omerta also has a very -- very strict part when
23 it comes to giving information to law enforcement, being an
24 informant or a snitch, you know, whatever kind of street term
25 you want to use, and that is considered the worst of the worst

T. Hurd - Direct/Cross

81

1 under that particular code. We see tattoos like this on some
2 of our -- some of our street gang members because they've
3 gotten that term from shows having to do with what we would
4 consider La Cosa Nostra or Italian or Sicilian based organized
5 crime, like the Godfather movies or the Sopranos, things of
6 that nature, and they have incorporated some of those sayings
7 that they've seen and heard in those films and shows into
8 their gang culture.

9 Q Okay. What about are there any other tattoos around that
10 tattoo on the back of his neck?

11 A No. It's a standalone word, which, to me, would give it
12 more meaning. If it was -- if it was folded into something
13 else, you know, a picture of something, or other words, or
14 something of that nature, but the fact that a word meaning
15 code of silence is what is tattooed on the back of your neck,
16 communicates to me that that's a very overt, something he
17 wants possibly seen by others, wants them to see that tattoo,
18 know what it means, and know the ramifications of that
19 particular word.

20 MS. BRYANT: Thank you. That's all I have, Your
21 Honor.

22 THE COURT: Cross?

23 CROSS EXAMINATION

24 BY MS. DRIGGERS:

25 Q Detective Hurd, it's possible to be affiliated with a gang

T. Hurd - Cross

82

1 but not be active, right?

2 A That is correct.

3 Q And isn't that -- isn't it true that a lot of times people
4 who may have been active in a gang in their youth, later grow
5 up and don't have any involvement at all?

6 A That is true. However, one of the issues that a lot of
7 the gang members, and especially gang members that are Mr.
8 Smith's age, is these guys -- I mean, we were both a lot
9 younger back in the early '90s, you know, age has affected all
10 of us. And so, we don't do the things like we used to, you
11 know. So, we're not finding Mr. Smith standing on the corner,
12 throwing gang signs, he's not wearing gang colors, things of
13 that nature. There is a fairly predictable aging out process
14 of some of the more overt gang activity. But what we have
15 found though is that as the gang members get older, especially
16 Little Rock's first generation, of which Mr. Smith would be
17 considered one of Little Rock's first generation gang members,
18 is that they will continue contact and affiliation with
19 members of the gang; which we have information, you know, as
20 of fairly recently, as to his contact, plus the fact, too, he
21 also has family members that are also affiliated, as well,
22 which makes it even more difficult -- if he was to, say,
23 decide that he was not going to affiliate and be done with the
24 gangs, it's even more difficult when you actually have close
25 family members that are also affiliates and members.

T. Hurd - Cross

83

1 Q So, it's fair to say then that if someone has tattoos all
2 over their body --

3 A Uh-huh.

4 Q -- so they're marked with this gang --

5 A Uh-huh.

6 Q -- they've got family members in a gang --

7 A Uh-huh.

8 Q -- they're seen with family members who are in the gang --

9 A Correct.

10 Q -- but it's hard to tell whether or not they're actually
11 gang banging or they're just hanging out with family?

12 A Well, one of the things that we have seen consistently
13 from the gang members that have made a decision to sever ties
14 with the gangs is that many of them, the vast majority of
15 them, will actually go in and have those tattoos covered up
16 with other tattoos. For example, we had several subjects that
17 stopped affiliating with one of our particular gangs, and they
18 had tattoos of the gang name on their chests, and as all of
19 these guys decided to get out of the gang, they all went and
20 got a ball and chain tattoo, which was very dark, it covered
21 up that original tattoo, and they quit affiliating. So,
22 that's the norm for people who actually cease affiliating with
23 a gang, is that they try to -- they try to sever the things
24 that they've done to themselves to identify themselves as a
25 gang member, because if they don't, then every time they get

T. Hurd - Cross

84

1 up and they look in the mirror on a daily basis, there is that
2 gang affiliation basically staring them in the face.

3 Q Right. Did I hear you say that you have information that
4 Mr. Smith is personally involved or active in a gang?

5 A Yes. He is a member of the Monroe Street Hustlers.

6 Q I get that he's a member, okay, that he's got the tattoos,
7 but is he actually out there committing crimes with gang
8 members?

9 A Well, as I said, one of the things that happens is the
10 criminal activity changes as gang members get older.

11 Q I get that, but that's not what I asked you. I asked you
12 --

13 A Well, it refers to that, because we are not seeing him out
14 there on the corner selling crack cocaine to people driving
15 up. He's not, you know, putting a bandana over his face and
16 doing the drive-by shooting, things of that nature. But one
17 of the things that we are seeing consistently with this first
18 generation is a change over in the type and level of criminal
19 activity that they are taking part in. It's less overt. It's
20 more -- I hate to use the word smarter, but they're not
21 putting themselves in as many situations as our 16 or 17 and
22 18 year old gang members are doing. They're -- they're still
23 committing criminal activities, but they're doing it on a --
24 and I'm not trying to compliment them -- but on a more
25 intelligent, on a higher, more organized level.

T. Hurd - Cross

85

1 Q Does Mr. Smith have an open case in your division or your
2 office where somebody is investigating him right now?

3 MS. BRYANT: Judge, I think that could compromise any
4 investigation that they would have. I think the fact that he
5 said that they have information that he's involved in the gang
6 is enough. I don't think he can talk about ongoing criminal
7 investigations.

8 THE WITNESS: I actually could just a little bit.

9 THE COURT: I figured he would. So, I -- I'd ask it
10 a different way, but go ahead, Detective.

11 THE WITNESS: Actually, there was some information
12 that came out of one of these interviews of one of these
13 victims that we are currently looking in to and following up
14 on regarding some of these acts of violence that we had around
15 the last part of last year and the first part of this year
16 between members of the Monroe Street Hustlers and members of
17 the Highland Park Pirus, the Westside Pirus, and the Oak
18 Street Pirus.

19 BY MS. DRIGGERS:

20 Q And that information came from one of these girls?

21 A There was information that came out just through the
22 course of this interview and it was -- it was reportedly a
23 statement that Mr. Smith made to one of the girls. And at
24 this point, it's -- it's kind of vague.

25 Q Okay.

T. Hurd - Cross

86

1 A But, you know, I'm being completely honest with you --

2 Q Okay.

3 A -- it is something that we are looking in to, due to the
4 timing and things of that nature.

5 Q Okay. Have you ever talked to Mr. Smith about any of
6 this?

7 A I haven't talked to him personally in quite a few years.
8 I've spoken to his sister on a few occasions.

9 Q So the information that you're talking about today is just
10 based on your opinion of what his tattoos mean and what his
11 involvement is?

12 A Well, we have documentation going back to -- like I said,
13 my division has documentation going back to 1993 of LRPD
14 contact, but we have interviews with members of his gang that
15 have come out during other federal investigations that
16 identify him as a member of a gang, of this particular gang,
17 the Monroe Street Hustlers, that he was a founding member,
18 that he's an OG, and that he has been a member of the gang
19 since 1989. So, no, ma'am, I am giving my opinion on what the
20 tattoos mean -- now, omerta, you -- that's -- it's a word, you
21 can look all that stuff up. OG is a common term, and I am
22 doing some interpretation with that. The Mr. Nate, that's
23 documented, as well. So, it's a little bit of a mix.

24 Q But before this arrest and before these girls were
25 interviewed, were you investigating him for gang activity?

T. Hurd - Cross

87

1 A Yes, ma'am.

2 Q Okay. So you're saying then that there's more --

3 A He has been -- he has -- when we investigate a gang, it is
4 ongoing. And he has been ongoing -- under an umbrella of
5 ongoing investigations since we found out that he was a gang
6 member in the early 1990s.

7 Q Is he currently facing any charges for any of this
8 information?

9 A There is -- like I said, there is currently some inquiries
10 being made regarding some of the acts of violence that
11 occurred the first part of this year, last part of last year,
12 but I can't really tell you how that's going to work out,
13 because, like I said, it's -- it's fairly fresh --

14 Q Sure.

15 A -- information that we didn't have until just here
16 recently.

17 MS. DRIGGERS: Okay. I don't have any other
18 questions. Thank you.

19 THE COURT: Redirect?

20 MS. BRYANT: No, Your Honor.

21 THE COURT: Detective, the address, 2307 South
22 Harrison, is that in the Hustler neighborhood or --

23 THE WITNESS: No, that's the -- it's my understanding
24 that's the family home, and has been for quite some time. I
25 think his sister uses the same home address, as well. If you

1 go back though to the time frame of the early and mid '90s,
2 there were addresses that were used by the family that were
3 within the traditional territory of the Monroe Street
4 Hustlers.

5 THE COURT: Okay. So, to your knowledge, Mr. Smith
6 didn't grow up on that Harrison address?

7 THE WITNESS: No. No. We do not have information
8 that would reflect that. And it is also uncommon for these
9 guys of his age to remain living in the traditional territory
10 of their gangs. They get older. They have children. And
11 they many times will move outside the gang area, just for
12 their safety and comfort, you know, because as part of being a
13 gang member, not only are you running the risk of being a
14 suspect in some type of act of violence, you are also running
15 the risk of being a victim.

16 THE COURT: I understand. Any follow up questions
17 based on my questions?

18 MS. DRIGGERS: No, Your Honor.

19 MS. BRYANT: No, Your Honor.

20 THE COURT: All right. You may stand down,
21 Detective. Thank you.

22 THE WITNESS: Thank you.

23 (Witness stands down.)

24 THE COURT: Let me address the photographs, Exhibits
25 1, 2, and 3. Detective Hurd, are they from Mr. Smith?

1 MS. JENNIFER HURD: Yes, they are.

2 THE COURT: All right. And --

3 MS. BRYANT: I believe Detective Hurd took them.

4 MS. JENNIFER HURD: I took them.

5 THE COURT: You took the photographs?

6 MS. JENNIFER HURD: Yes.

7 THE COURT: All right. Is that fair enough?

8 MS. DRIGGERS: Yes, Your Honor.

9 THE COURT: All right. I hate to keep our Marshals
10 and everybody else standing by here. So, all right, they're
11 admitted then.

12 (Government's Exhibits No. 1, 2, and 3 identified and
13 received.)

14 THE COURT: And is there any other witnesses?

15 MS. BRYANT: No, Your Honor.

16 THE COURT: All right. For the defense?

17 MS. DRIGGERS: No, Your Honor.

18 THE COURT: Would you like to make argument?

19 MS. BRYANT: Yes.

20 THE COURT: All right. Why don't you all make
21 argument and I'll take a brief recess again. I don't want to
22 keep everybody here waiting in limbo here, but I need to make
23 a decision. So, for the prosecution, I'll let you go first.

24 MS. BRYANT: Your Honor, I think today we're positing
25 both that Mr. Smith is a danger to the community and he's a

1 risk of flight. I know we have to show that he's a risk of
2 flight by the preponderance of the evidence. And I would
3 submit to the Court that the testimony about Mr. Smith
4 basically making every excuse to try to not to have to come to
5 court, saying that his arm hurts, he has a heart -- he's
6 having heart problems, yet when he goes to the hospital he
7 doesn't complain about his heart. He clearly had nothing
8 wrong with his heart, because the diagnose was of joint pain.
9 I would submit that he was doing everything possible to avoid
10 having to come to court today, to the extent that he's lying
11 about problems to not have to come to court. And I think that
12 proves he's a risk of flight. He also has a fleeing
13 conviction from 1996.

14 But we're really resting our hat on the fact that Mr.
15 Smith is a danger to the community. The Court looked at his
16 extensive criminal history, I believe he has over five
17 possession -- possessions of a controlled substance
18 convictions. He also has one state conviction for felon in
19 possession. And then he also has a federal conviction for
20 being a felon in possession of a firearm.

21 The Court heard the testimony from Detective Hurd
22 about Mr. Smith's extensive involvement in the gang. He's
23 actually a founding member of it. The Court heard about the
24 violence that comes with that gang. Mr. Smith is a danger to
25 the community being a part of that gang, and the gang is also

1 a danger to Mr. Smith.

2 The Court heard the testimony from Detective Hurd
3 that all of the victims stated that Mr. Smith carries a
4 firearm. And I know that we missed the gun that day, but one
5 of the victims described that gun to a tee, and they found it
6 the next day. There was also ammunition in the room that Mr.
7 Smith had rented under his name, as well as a slit in the bed,
8 which all of the girls told Detective Hurd that that's where
9 he hid his gun.

10 Your Honor, he was arrested on April 29th, he bonds
11 out, for trafficking of persons, of the two girls who
12 testified -- one testified she was beyond afraid. Detective
13 Hurd told you they were all scared of him. They talked about
14 the punishment that he put on them, the physical, the mental
15 punishment. He's arrested, bonds out on the first, and within
16 two weeks, he's doing the exact same thing again. He's
17 already recruited another girl to work for him. And then he's
18 arrested.

19 I just think there is not a set of conditions that
20 this Court can put on him that would prevent him from being a
21 danger to the community, especially to the women. He recruits
22 these girls, he makes them work for him, and if they don't
23 meet their quota of 500 dollars a day, he beats them. I think
24 Ms. Lee, he was screaming at her to keep her mouth shut. He
25 was telling the detectives that these girls aren't going to

1 come to court. I think there is only one way he knows that,
2 it's either because he's scared them to not come, or if he
3 gets out, he's going to make sure that they don't come. And
4 we'd ask this Court to detain him.

5 Thank you.

6 THE COURT: For the defense?

7 MS. DRIGGERS: Thank you, Your Honor.

8 First, I'd just like to point out that the Government
9 does have the burden in this case. And not only do they have
10 the burden, but they -- we're also at the stage where this is
11 a criminal complaint, so this hasn't even been presented to a
12 grand jury. And what we have heard today is pretty much
13 evidence of the Government's case, which they have a right to
14 present, but we don't have any of those witnesses here to hear
15 from them. We also don't have their recordings, the
16 statements that they gave. I mean, conveniently, we have the
17 recording of Mr. Smith, but we're not in a position where we
18 can get discovery and listen for ourselves as to what these
19 girls really said. So, their credibility is key. We just
20 don't know much about that right now.

21 So, if the Government's reliance on the strength of
22 their evidence is their reason for detaining him, I would just
23 ask the Court to be mindful that pre-complaint -- you know,
24 he's not even been indicted and this isn't a jury trial, this
25 isn't to decide whether or not he's guilty of all these acts.

1 And with regard to his criminal history, many of
2 these convictions are dated. And we would concede that, you
3 know, from the age of 16, he's been in trouble with the law,
4 but he's not 16 anymore.

5 And as documented in the Pretrial Report, and even in
6 his Presentence Report, he has a history of drug use and
7 mental health. So, I don't believe it's really fair for
8 officers to opine whether or not Mr. Smith's statements that
9 were made in a room at the detective division or at a room in
10 the hospital are malingering or exaggerating, when they don't
11 know his history. But we have it documented here that he does
12 have a history of paranoia and drug use. And we don't know if
13 he was high. We don't know what was going on with him that
14 evening. We don't know what was going on with him the day
15 that he was arrested. And it's just too much speculation to
16 automatically point the finger that he's trying to flee from
17 court or trying to escape some kind of responsibility here.

18 He needs help. He needs treatment. And we're asking
19 the Court to release him on the strict condition that he go to
20 inpatient rehabilitation for a period of 90 days, followed by
21 chemical free living.

22 We do have family here to support him, but we're not
23 even going to try to put them on the witness stand to accept
24 that responsibility to get him help, because we know that
25 that's bigger than something they can handle right now.

1 Again, we stipulated that in the report he's had
2 trouble with supervision before, so we're making that
3 conscious effort not to put his family in a position where
4 they would have to supervise him.

5 We're asking the Court to send him to a
6 rehabilitation center where he can get some real help for both
7 his mental health and his medical treatment and his drug
8 history. But he needs to be ready to fight these charges when
9 and if an indictment comes down.

10 And we feel like right now the Government just hasn't
11 proven that he's a danger to the community. There are some
12 conditions out there that can be imposed.

13 Thank you.

14 THE COURT: All right. I'll take a brief recess, I
15 don't want to delay us any longer, and we'll be right back.

16 (Recess.)

17 AFTER RECESS

18 THE COURT: All righty. Ms. Driggers has done a good
19 job attacking the strength of the case. And, you know, these
20 cases are inherently difficult because of the fact that
21 ultimately it's going to come down to the credibility of the
22 witnesses. And you've done a really good job of challenging
23 that. However, at this juncture, on that point, I think that
24 Detective Hurd -- Detective Jennifer Hurd has met her -- I
25 don't know what you would call it -- but she has countered

1 that with her testimony. She's got a long history of being a
2 detective, for one, and she's got specific training in this
3 area. And I, frankly, credit her assessment at this juncture.
4 I think that where that goes is, ultimately, the Government is
5 going to present their case to the grand jury, and if my
6 suspicion is right, they would bring in the witnesses into the
7 grand jury, and the grand jury would make an ultimate
8 determination, unlike we're able to do here, where they're
9 able to actually view the credibility of the witnesses. So, I
10 -- I credit your point on that. I kind of find it almost a
11 draw.

12 So where I look to next is really kind of what the
13 characteristics and the history of Mr. Smith. And, you know,
14 that's not good. Mr. Smith, you have a pretty lengthy
15 criminal history, a lot of guns in your history, a lot of
16 violence in your criminal history. I think that the Exhibit
17 5, the threats made to the police, I think the detective's
18 statements, his testimony regarding the threats toward the
19 victims gives me very serious concern that if I were to
20 release you, we haven't had testimony where the -- the alleged
21 victims are, but I would be very concerned of you being out,
22 as well as them on -- on the block at this point.

23 The gun, I find that there's credible evidence that
24 the gun belonged to Mr. Smith. Specifically, the Springfield
25 .45.

1 I'm sorry I got confused on that, Detective Hurd.
2 But it was very important to me to make sure that I understood
3 that. And I went back and forth on it; frankly, I was like,
4 wow, that gun belonged to Mr. Smith, and then, because of my
5 poor questioning, I thought, okay, well, I don't know who the
6 gun belonged to, so I'm not going to hold that against Mr.
7 Smith, but then the redirect I think confirmed the fact that
8 you had a witness who specifically testified about the
9 Springfield .45, and it being found in the -- the hotel room
10 that is, you know, maybe not in his name, but it's surely tied
11 to Mr. Smith and his activities.

12 I'm concerned that, you know, he's out on bond. And
13 what's he doing? Immediately back in the game. You know,
14 that's really kind of what we're doing here, right, we're
15 saying, hey, you're in trouble, we're going to release you. I
16 think that, you know, based on these actions of his and these
17 different arrests here, all close in time, indicate that he
18 would be somebody who would likely go out and go right back
19 into criminal activity despite whatever condition that I would
20 set.

21 He's given false statements to the Pretrial Service
22 Officer, the first part about him being employed. And then
23 the officer calling the -- the employer and them saying, you
24 know, he hasn't worked here in a long time. As I know you
25 know, counsel, it's been in my court many times, the whole

1 release is based on a relationship of trust and communication.
2 And so, that -- that gives me cause of concern.

3 And then the gang testimony, although the defense,
4 you did -- you did a good job challenging Detective Hurd on
5 that, I think that it's pretty clear that he's an OG. The
6 exhibit is very clear on that. I don't know how all that ties
7 in, because I think there's more compelling reasons to detain
8 Mr. Smith at this point. And the most compelling, like I say,
9 is his criminal history, the .45 caliber found in the hotel
10 room, and the Exhibit 5, and the detective's testimony about
11 the threats to the victim. And Detective Bratton, his
12 testimony about the making the witnesses go away, I think
13 that's a real possibility and a real threat and something that
14 would weigh heavily on my mind were I to release to Mr. Smith.
15 I just don't -- ultimately, it comes down to a gut check, and
16 I just don't believe that I can release him on any conditions
17 to assure the safety of the community, particularly the
18 witnesses that are involved in this case.

19 I think that what we're looking at is, on the -- back
20 to the strength of the case, which I do credit defense on,
21 just largely because it's hard to tell in this context,
22 without actually live witnesses, to make credibility
23 determinations, and the credibility will be so important in
24 prosecuting this case. I do believe that the Government will
25 have the opportunity to go to grand jury in the very near

1 future. And, you know, if you're right, the case will
2 dissolve and then there won't be any basis to hold Mr. Smith
3 any longer. But if the witnesses are credible, they'll have
4 an indictment, and I think that will be telling on the
5 strength of the case. And so, I'm comfortable, given that
6 we're probably talking about a couple of weeks here time frame
7 for that to resolve itself.

8 So, and again, I do credit Detective Hurd's
9 testimony. For the record, I do want to say that I credit
10 Detective Jennifer Hurd's testimony and I make note of the
11 fact that I do believe she's highly trained and I do believe
12 her in her assessment that these witnesses are credible, at
13 least at this juncture.

14 So, it's a long drawn out explanation, but I did want
15 to make a record of it. I don't know what -- what the defense
16 wants to do with it, but, obviously, you're always welcome to
17 appeal any decision that I make, because I try to get them
18 right, but I don't often get them right -- or I don't always
19 get them right -- hopefully, I often get them right.

20 Those are my findings and my decision in this case.
21 So I find by clear and convincing evidence that he is a danger
22 to the community. And I find by -- also, I do agree with the
23 prosecution, just because of the -- the instability, if you
24 will, and the dishonesty with the employment part, that was my
25 point on the risk of flight, I think the Government has

1 carried their burden on the preponderance of the evidence in
2 that matter.

3 Is there anything else then on behalf of Mr. Smith
4 that we need to take up today?

5 MS. DRIGGERS: No, Your Honor.

6 THE COURT: On behalf of the United States?

7 MS. BRYANT: No, Your Honor.

8 THE COURT: All right. I commend counsel on both
9 sides for putting a very strong case on both sides together.
10 And we'll be adjourned.

11 (Adjournment at 5:31 p.m.)

12 ELECTRONIC SOUND RECORDING CERTIFICATION:

13 I, court approved transcriber, certify that the foregoing is a
14 correct transcript from the official electronic sound
15 recording of the proceedings in the above-entitled matter.

16

17 <u>/s/Robin Warbritton</u>	<u>June 25, 2014</u>
Signature of Approved Transcriber	Date

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19 Robin Warbritton
20 Typed or Printed Name

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